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ABSTRACT

This hearing examined whether federal child welfare and foster care programs could be streamlined to better help children, focusing on the efficacy of section 427 of the 1980 Adoption Assistance and Child Welfare Act, which requires states to report on compliance with 18 separate child protection strategies. Testimony regarding the streamlining or elimination of section 427 was heard from: (1) Assistant Secretary Mary Jo Bane, Children and Families, U.S. Department of Health and Human Services; (2) New Jersey Department of Human Services; (3) National Fatherhood Initiative; (4) Los Angeles County Department of Children and Family Services; (5) Cook County Office of Public Guardian; (6) Karen Aileen Howze, an adoptive parent; (7) American Civil Liberties Union; (8) Child Welfare League of America; (9) Children's Rights Council; (10) Brigitte Berger, a sociology professor; (11) Maryland Citizen Foster Care Review Board; and (12) National Association of Foster Care Reviewers. Written submissions were also provided by other interested individuals and organizations. (MDM)

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CHILD WELFARE PROGRAMS

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ED 394 636

HEARING

BEFORE THE

SUBCOMMITTEE ON OVERSIGHT

OF THE

COMMITTEE ON WAYS AND MEANS
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

JANUARY 23, 1995

Serial 104–12

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CHILD WELFARE PROGRAMS

MONDAY, JANUARY 23, 1995

House of Representatives,
Committee on Ways and Means,
Subcommittee on Oversight,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:04 a.m., in room B-318, Rayburn House Office Building, Hon. Nancy L. Johnson (chairman of the subcommittee) presiding.

[The press release announcing the hearing follows:]

ADVISORY

FROM THE COMMITTEE ON WAYS AND MEANS

SUBCOMMITTEE ON OVERSIGHT

FOR IMMEDIATE RELEASE
January 13, 1995
No. OV-1

CONTACT: (202) 225-7601

JOHNSON ANNOUNCES HEARING ON CHILD WELFARE PROGRAMS

Congresswoman Nancy L. Johnson (R-CT), Chairman of the Subcommittee on Oversight of the Committee on Ways and Means, today announced that the subcommittee will hold a hearing to examine whether federal child welfare programs could be streamlined to better help children. This hearing will supplement the Subcommittee on Human Resources' welfare reform responsibilities under the *Contract with America*. **The hearing will be held on Monday, January 23, 1995, in room B-318 of the Rayburn House Office Building, beginning at 10:00 a.m.**

In view of the limited time available to hear witnesses, the subcommittee will receive testimony from invited witnesses only.

BACKGROUND:

Child welfare services are intended to help improve the conditions of children and their families or to provide substitutes for functions parents have difficulty performing. The primary responsibility for child welfare services rests with the states. Each state has its own legal and administrative structures and programs that address the needs of children, and there are many differences among the states.

The Federal Government also provides funding to the states for a broad range of child welfare services. For example, the Federal Government provides funds to states for, among other things, family preservation and family support services, foster care, independent living, and adoption assistance programs. Federal child welfare and foster care programs are intended to operate in concert to help prevent the need for out-of-home placement of children and, in cases where such placement is necessary, to provide protection and permanent placement of the children involved.

Congress enacted legislation in 1980 (Public Law 96-272) designed to encourage states to use child welfare funds to help keep families together and prevent the placement of children in substitute care. The 1980 legislation required that if the federal appropriation for the child welfare program exceeds a set amount in any year, states would lose funds above this amount if they failed to put into place a number of child protections. Over time, these "incentive funds" have grown in importance.

In response to Public Law 96-272, the Department of Health and Human Services (HHS) identified a total of 18 child protections required by section 427 of the act. Under what came to be known as "427 reviews," the caseload of each state receiving incentive funds is examined to determine compliance with these child protections. Among the reviews HHS requires states to perform for each child are:

(1) a description of the type of home or institution in which the child is to be placed;

(2) a discussion of the appropriateness of the placement;

(3) a plan to achieve placement in the least restrictive (most family-like) setting;

(4) a plan for placement in close proximity to the parents' home, consistent with the best interest and special needs of the child;

(5) a statement of how the responsible agency plans to carry out the voluntary placement agreement or judicial determination;

(6) a plan for ensuring that the child will receive proper care; and

(7) a plan for providing services to the parents, child, and foster parents to improve conditions in the parents' home and facilitate the return of the child to the home, or into a permanent placement.

FOCUS OF THE HEARING

The hearing will focus on our nation's 14 years of experience with "427 reviews" to determine whether they have served to improve the lives of children. Over the past several years, a consensus has been developing that the 427 reviews impose a costly and burdensome workload on the states without providing any discernible benefit to the children in need of child welfare and foster care services. The subcommittee will hear testimony from state child welfare administrators and other interested parties to examine whether elimination of 427 reviews and block granting federal child welfare services and foster care programs back to the states will strengthen the states' abilities to deliver these important services to children.

DETAILS FOR SUBMISSION OF WRITTEN COMMENTS

Any person or organization wishing to submit a written statement for the printed record of the hearing should submit at least six (6) copies of their statement by the close of business on Tuesday, February 7, 1995, to Phillip D. Moseley, Chief of Staff, Committee on Ways and Means, U.S. House of Representatives, 1102 Longworth House Office Building, Washington, D.C. 20515. If those filing written statements wish to have their statements distributed to the press and interested public at the hearing, they may deliver 200 additional copies for this purpose to the Subcommittee on Oversight office, room 1136 Longworth House Office Building, at least one hour before the hearing begins.

FORMATTING REQUIREMENTS

Each statement presented for printing to the Committee by a witness, any written statement or exhibit submitted for the printed record or any written comments in response to a request for written comments must conform to the guidelines listed below. Any statement or exhibit not in compliance with these guidelines will not be printed, but will be maintained in the Committee files for review and use by the Committee.

1. All statements and any accompanying exhibits for printing must be typed in single space on legal-size paper and may not exceed a total of 10 pages.

2. Copies of whole documents submitted as exhibit material will not be accepted for printing. Instead, exhibit material should be referenced and quoted or paraphrased. All exhibit material not meeting these specifications will be maintained in the Committee files for review and use by the Committee.

3. Statements must contain the name and capacity in which the witness will appear or, for written comments, the name and capacity of the person submitting the statement, as well as any clients or persons, or any organization for whom the witness appears or for whom the statement is submitted.

4. A supplemental sheet must accompany each statement listing the name, full address, a telephone number where the witness or the designated representative may be reached and a topical outline or summary of the comments and recommendations in the full statement. This supplemental sheet will not be included in the printed record.

The above restrictions and limitations apply only to material being submitted for printing. Statements and exhibits or supplementary material submitted solely for distribution to the Members, the press and the public during the course of a public hearing may be submitted in other forms.

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Chairman JOHNSON. Good morning. It is a pleasure to have you all here today for the initial hearing of the Oversight Subcommittee. The Oversight Subcommittee operates as a watchdog to ensure that the laws and programs which Congress has enacted are being carried out properly. While Congress passes laws, it is the executive branch that carries them out. Thus, one goal of congressional oversight is to ensure that the executive branch is administering the laws in a way that Congress intended.

Another goal is to review whether or not the original law is still relevant to today's problems. I can think of no other area where this oversight role is more critically important than in reviewing the effectiveness of Federal child welfare and foster care programs. The children served by Federal and State welfare programs are the most vulnerable members of our society. All too often they are the victims of neglect, abandonment, and physical and sexual abuse. No other segment of our society needs the protection of vigilant oversight more than these children.

Under our system of government, the primary responsibility for providing child welfare services rests with the States. Each State has its own legal and administrative structures and programs to address the needs of abused and neglected children and there are significant differences among the States. However, the Federal Government also has provided funds to the States for a broad range of child welfare services, including family preservation and family support services, foster care, independent living, and adoption assistance services, and this subcommittee has a long and honorable history in helping to develop those Federal programs that are then implemented through a partnership of enormous importance to the well-being of the children of America.

In 1980, Congress enacted the Adoption Assistance and Child Welfare Act, which was designed to encourage States to use child welfare funds to help keep families together and prevent the placement of children in substitute care. After the legislation's passage, the Department of Health and Human Services identified a total of 18 separate child protections required by section 427 of the act. Under what became known as the 427 reviews, the foster care caseload of each State is examined to determine whether the State has complied with these child protections.

Our hearing today will focus on our Nation's 14 years of experience with section 427 reviews. Clearly, there was some improvement in State child welfare and foster care programs in the years immediately following passage of the 1980 act. By 1983, foster care caseloads had dropped to 262,000 children from an estimated high in 1977 of almost 500,000 children. However, that progress has reversed and in recent years the number has been on the rise again. Many child welfare experts attribute this increase to the crack cocaine epidemic which began in the mideighties and the rapid growth of out-of-wedlock births over the past decade.

One of the fundamental underpinnings of the 1980 act was family preservation. In other words, the act was premised on the belief that it is generally in the best interest of children to live with their own families. To ensure that the States were using Federal funds as Congress intended, tight strings were attached to their receipt, including the possible loss of so-called "incentive funds" if the

States failed to put into place the child protections created under section 427 of the act.

While family preservation is certainly a worthwhile goal, we must also recognize that in too many cases today there is no family left to be preserved. A large percentage of the children now in substitute care in the United States have been neglected, physically or sexually abused, or abandoned by drug addicted parents. We need only recall the horrible pictures we saw on our television sets last year of the 18 children found abandoned in a roach-infested Chicago apartment—crawling in dog feces, many were in diapers that hadn't been changed for days—to understand that family preservation isn't always in the child's best interest.

The question we must ask today is whether the structure of current Federal child welfare programs and regulations continues to best serve the interests of abused and neglected children or, as some believe, has it evolved into a system which merely protects growth in the welfare bureaucracy?

Over the past several years, a consensus has begun emerging that while section 427 reviews impose a costly and burdensome workload on the States, they do not provide any discernible benefit to the children in need of child welfare and foster care services. The irony is that a State may pass its section 427 reviews with HHS but a court still may rule that its child welfare programs are so mismanaged that it will place the programs under court receivership and that is exactly what is happening around the country in many States today. Sadly, this is happening even in my own State of Connecticut, which has been a leader in children's services.

This naturally leads to the question if a State's child welfare programs are to be found in compliance with Federal child protections yet the programs are mismanaged and aren't protecting the children, what steps should be taken to improve the situation?

For years, the States have been telling Congress they need more flexibility to decide how to target Federal child welfare funds to where their particular needs are greatest. The time has come to listen to what the States have been telling us. Child welfare resources must be refocused to serve the fundamental purposes of protecting children.

Today, the subcommittee will consider whether elimination of the 427 reviews and block granting Federal child welfare services in foster care programs back to the States will strengthen the States' abilities to serve children in crisis.

We also want to hear the witnesses' reviews about whether certain Federal standards and data gathering and reporting requirements will be necessary to ensure that the States use Federal block grant funds to serve the best interests of America's children.

We will receive testimony from the administration, from State and child welfare administrators, and from advocacy groups and individuals on the frontline helping to serve abused and neglected children.

I want to welcome all the members to our first Oversight Subcommittee hearing, all the members of the committee, as well as the witnesses and others who have joined us today. Our first witness is Mary Jo Bane, Assistant Secretary for Children for the Department of Health and Human Services.

Before I welcome Ms. Bane, let me yield to my ranking member, the gentleman from California, Mr. Matsui.

Mr. MATSUI. Thank you very much, Madam Chairwoman. I appreciate very much the fact that you are yielding to me for an opening statement.

I would like to commend you on the chairmanship on this very important Oversight Subcommittee. Many of you may not know this, but Chairwoman Johnson chaired the oversight subcommittee in the Connecticut Legislature and did a great job, from what I understand, in talking to other people in terms of the oversight of many of the programs. We look forward to working with you and obviously the other members of the subcommittee, as well.

If I may just be very brief in my remarks, some are talking at this time about block granting many of the child welfare and AFDC and other social programs of the Federal Government. There is just no question that the child welfare programs themselves, IV–E, IV–B and others, are probably the ultimate safety net for our young children in America. If we block grant, for example, AFDC benefits and we have very strict time limits in those benefits and if, in fact, they are discretionary programs rather than entitlement programs, this will undoubtedly put many young women and children at-risk in America. We will then need a safety net. And of course that safety net will become and always has been the child welfare system. To block grant those programs and put those under a discretionary program would even create more danger to our children. So we, obviously, must look at these programs very carefully. And we appreciate the fact that Mrs. Johnson is calling these hearings today for that purpose.

I would like, if I may, just to make a couple more observations. We must make sure that these hearings, and this hearing today in particular, are not the basis legislating a block granting of these programs. It is my hope that the Human Resources Subcommittee will also conduct hearings on these issues since it is primarily in their jurisdiction. And I would not want any of the members on our side of the aisle to lead anyone to believe that we will be satisfied with marking up legislation in this area just on the basis of the hearings we are holding today and perhaps subsequent hearings as well.

This is an oversight subcommittee. It is not one with substantive legislative jurisdiction. So it is my hope and understanding that we will have further hearings in the appropriate legislative subcommittee.

Second, I think what we need to do is not only discuss block granting and possible savings to the State and Federal Government, but also we need to talk about minimum national standards that will be conveyed along with whatever moneys the Federal Government sends to the States under any kind of program, whether it is block granting or whether it is an entitlement program.

We also need to continue to talk about State maintenance of effort. As you know, in times of recession, it is the States that have been the ones to cut back, and obviously their programs are countercyclical. In times of recession, they need more of an effort for their social programs.

States being so close to their constituents, there is no question that the legislature and the Governors have a tendency to go with public opinion rather than go with what is right. Public opinion affects the local government most greatly and State government second and the Federal Government usually can sit back and make informed judgments. It is very, very dangerous to put these programs in the hands of States in times of recessions because normally they will make decisions based upon what is popular, what gets votes, rather than what is in the right interest of the American public, particularly the children of America who don't vote.

And I might just point out, this has been demonstrated recently in the discussions about entitlement programs. We talk about eliminating the entitlement status of AFDC, of social welfare programs, but no one talks about eliminating the entitlement status of Social Security. Well, it is obvious, senior citizens vote and children and poor people don't vote.

I might also mention, too, we need to talk about quality assurance. When money goes to the States, the Federal Government, those of us who are legislators, have an absolute responsibility that the money of the taxpayers is used efficiently. And we have to make sure we maintain quality assurance. We have to make sure we maintain standards. We have to make sure that there are reviews to make sure the States are not misusing our money.

Let me just conclude by making an observation about the state of children in America. There is no question, the Chairwoman mentioned the Chicago situation where 18 children were left abandoned and discussed the problems with the family preservation programs in America. I wouldn't call that family preservation.

When we passed the family preservation legislation in 1993, there were a number of components. One was early intervention, early intervention into that family to make sure that the child and the mother, particularly the mother, understood how to care for that child, how to nurture that child. In fact, we tried to pattern it after a program in Hawaii where the intervention occurs upon the birth of that child.

We also had in that legislation originally programs for the courts so that the judges would learn what is necessary in making sure that the juvenile justice system worked. We went to Chicago, Ill., and we found that the judge, the juvenile court judge was listening to cases every 5 minutes. It is pretty obvious in that kind of a situation the judge was not able to decide what was in the best interest of that child with the 5-minute review. But unfortunately, that program was cut back.

We only have under $1 billion over the next 5 years, $200 million a year for all 50 States. We can't do it with those kinds of resources. So we are not really talking about family preservation. We are basically talking about giving some limited assistance to States. But if you really want to do family preservation, you are going to have to be willing to put the resources in to do early intervention, making sure the justice system works and making sure that ultimately, and I conclude with this, the best interest, the best interest of that child is in the minds of the legislatures when we take action.

Thank you, Madam Chairwoman, for this opportunity.

Chairman JOHNSON. Thank you, Mr. Matsui.

Mr. Ramstad, a new member of the Ways and Means Committee, and a valued member of this subcommittee, isn't able to join us at the very beginning of our hearing but would like his opening statement submitted for the record, and it will so be done.

[The prepared statement of Mr. Ramstad follows:]

STATEMENT OF REPRESENTATIVE JIM RAMSTAD
WAYS AND MEANS OVERSIGHT SUBCOMMITTEE
HEARING ON CHILD WELFARE PROGRAMS
January 23, 1994

Madame Chairwoman, I appreciate you holding this oversight hearing on federal child welfare programs, their effectiveness and how they might be reformed.

Recently, some rather outlandish and inaccurate charges have been made about the Contract with America's welfare reform legislation.

But it should be made clear that it is the states -- not the federal government -- that have primary responsibility for child welfare services. In fact, state and local authorities make the decision thousands of times each year to remove children from their families and place them in foster care or group homes because of abuse and neglect.

The federal government has steadily increased its financial support for a broad range of child welfare services, particularly through the use of "incentive funds." But with this rise in funding has also come more and more federal regulations.

These regulations, known as "427 reviews," require states to report on 18 child protections. While they may be well-intentioned, it is not clear they have improved the quality of child welfare services. What is clear is that compliance with the "427 reviews" has become a real burden on state and local administrators of child welfare programs, diverting needed resources.

By one count, there are currently 38 federal child welfare and child abuse programs for low-income people, with a total of more than $4.3 billion in funding this year. As we explore ways to reform the complex web of federal welfare programs, one of our top priorities must be to give states the flexibility to more efficiently and effectively meet the needs of their residents.

I hope the witnesses before us today -- Administration officials, state child welfare providers and administrators and child welfare advocates -- will offer some valuable suggestions and proposals that will help us meet this goal and better serve the children in these programs.

I thank all of the witnesses for being here today and look forward to their testimony.

Chairman JOHNSON. Are there other members of the committee who would like to make a comment before we proceed with the Assistant Secretary's testimony?

If not, Secretary Bane. Welcome. It is a pleasure to have you.

STATEMENT OF HON. MARY JO BANE, ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. BANE. Good morning, Madam Chairman and members of the committee. I have submitted a longer statement for the record and I would like to summarize my testimony at this point.

I am the Assistant Secretary for Children and Families in the Department of Health and Human Services. My agency has responsibility for the range of child welfare programs that serve the most vulnerable children and families in this Nation, often at times of terrible crisis.

It is a real pleasure to be testifying before you this morning at this very important hearing—I am so pleased you are having it—because of your long history of working for the betterment of child welfare programs. I would like to take advantage of this opportunity to share our vision for strengthening and reforming child welfare services by establishing a strong national leadership role, combined with increased State flexibility. As part of this discussion, I will address the protections under section 427.

A very large and growing number of children have some contact with the child welfare system. In 1992, almost 3 million children were involved in reports of child abuse or neglect. Of these reports, about 40 percent, involving almost 1 million children, were substantiated, that is, found to have some basis. About 17 percent of the children found to be abused and neglected required placement outside their homes in order to assure their protection.

How well we respond to the unique needs and circumstances of these children and their families has enormous consequences for children's safety and for their future development. We believe that there is an emerging consensus in States and communities across the country that child welfare services need dramatic improvement. Ours is a vision where the first priority of child welfare services is to ensure the safety of children and of all family members, where all services build on the resources and strengths of families to help support children's healthy development, where the community is the first line of support for families, and where all communities offer a continuum of services, from informal support services to early prevention, to foster care, reunification, and adoption. To achieve this vision will require both strong national leadership and increased State flexibility.

As a former State child welfare commissioner and now as a Federal official in regular contact with the States, I am personally committed to ensuring that we at the Federal level concentrate our energies where we can have the most effect on high-quality services and outcomes for children and families, rather than on the more narrowly focused enforcement actions of past years.

As you noted, Madam Chairman, I believe that we have in fact made progress since the passage of the landmark Adoption Assistance and Child Welfare Act of 1980, but we still have a long way to go. One major problem is that the past Federal approach to enforcing the protections under section 427 of the Social Security Act has not been fully effective or fully desirable. Although States made significant progress in the early years after the protections were required, the approach to monitoring has focused both the States and the Department on the literal compliance with procedural requirements, with the content of the paper found in case folders, rather than on the intent of the provisions and the attainment of quality outcomes for children.

Provisions that Congress enacted last year give us new and more flexible tools for working with the States to improve the child welfare system by realizing the vision behind the protections embodied in section 427. We are currently reengineering our approach to monitoring and reviewing State programs, as well as to determining eligibility and assessing the quality of outcomes and practice in State programs.

We will be focusing in new ways on partnerships with the States in development of review plans and protocols; on support for change through technical assistance and corrective action plans; on self-assessment by the States; on the use of automated data and information systems; and on outcomes. We plan to conduct the first pilot tests of these new approaches in the spring and will issue regulations for public comment as required by the legislation in the summer of 1995. We will also be also working in the spring with the States as they develop innovative projects under the new demonstration authority.

We are very eager to work with you as you move forward to consider a variety of approaches to improve program consistency and coherence. As you review approaches involving spending caps, block grants or consolidations, we would like to raise some difficult issues about the potential effects of these proposals that we think we all need to consider. They deal with ensuring basic care and protection for vulnerable children; cushioning the States against unpredictable increases in demand; and achieving national goals for the child welfare system.

Between 1988 and 1993, the rate of reported child abuse and neglect rose 25 percent, partly because of deterioration of the communities where many vulnerable children and families live. The foster care caseload during that period rose by almost 50 percent, reflecting an increased need to ensure the safety of children from the most troubled families, and the numbers of families receiving adoption subsidies nearly tripled.

Chairman JOHNSON. Excuse me, Madam Secretary. I didn't mean for the bell to govern your testimony.

Ms. BANE. I will talk faster.

Chairman JOHNSON. Go ahead.

Ms. BANE. These increases that I have just noted are illustrations of some of the trends that contributed to a tripling of spending on foster care, adoption assistance, and child welfare services over the 1988–93 period. These funds provided basic protections and services to the most vulnerable children in this country. Had a cap on spending been imposed in 1988, these children are likely to have been left at considerable risk, especially since the needs of these families and children for services are unpredictable and may not diminish.

Federal spending plays an important role in helping States cope with increased demands on their child welfare systems, which vary dramatically across the States. Any block grant that you consider would require the construction of a formula to allocate funds across States.

We did an illustration of the effect that a block grant might have on States by looking at what would have happened if a block grant had been put in place in 1988 using a base of 1987 spending and an allocation formula based on spending in that year. If this type of block grant had been in place, in the aggregate States would have lost two-thirds of what they actually claimed in 1993. Connecticut would have lost 67 percent; California would have lost 66 percent. Only one State would have received more than it actually claimed. The results for all the States are shown in the table attached to my full testimony.

There are, of course, many ways of establishing a level of aggregate spending and many possible ways of distributing it. This illustration is not meant to suggest that that is what this committee or any committee would recommend. But it does illustrate two things. First, it illustrates that demand is unpredictable and States could be seriously disadvantaged by a block grant or spending cap approach. Second, it shows that there are enormous variations among the States which no allocation formula is likely to be able to cope with fully.

Finally, as we consider how best to achieve our national goals for the child welfare system, it is essential to consider the consequences of any proposal in terms of the safety of children and the stability of families, as well as the ability of foster and adoptive families to nurture and raise the children who need them. Given the critical nature of these child welfare services, we must be very careful to construct an approach to change that balances flexibility for the States and communities with the need for a national framework, for accountability for outcomes, and for effective protections for the children and families. We must also assess carefully the likely impact of each approach on States, communities, and families.

We look forward to working with the committee, the Congress, and the States to revitalize these essential services to support the safety and healthy development of children.

Thank you. I am happy to answer any questions at this time.

[The prepared statement and attachments follow:]

TESTIMONY OF MARY JO BANE
ASSISTANT SECRETARY FOR CHILDREN AND FAMILIES
U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Good morning, Madame Chair and members of the Committee. I am the Assistant Secretary for Children and Families in the Department of Health and Human Services, with responsibility for the range of child welfare programs. These programs are extremely important because they serve the most vulnerable children and families in our nation, often at times of terrible crisis.

It is a pleasure to be testifying before you, Madame Chair, because of your long history of working for the betterment of child welfare programs. I would like to take advantage of this opportunity to share our vision for strengthening and reforming child welfare services by establishing a strong national leadership role combined with increased state flexibility to meet their particular needs. As part of this discussion, I will also address the protections under section 427 of the Social Security Act, which I understand is of particular interest to this Committee today.

Background

A very large and growing number of children have some contact with the child welfare system. In 1992, almost 3 million children were involved in reports of child abuse or neglect. Of these reports, about 40%, involving almost 1 million children, were substantiated. About 17% of the children found to be abused or neglected required placement outside their homes to assure their protection.

How well we respond to the unique needs and circumstances of these children and their families has enormous consequences for children's safety and for their future development. Let me illustrate with the story of three young siblings, James, Sara, and Mary. They were removed from their birth family due to severe physical abuse and neglect at ages 3 years, 2 years, and 2 months respectively and placed with two separate foster families. Four years later, after placements with three or more families each, the siblings were finally reunited and placed with an adoptive family in another state, identified through an extensive recruitment campaign. The placement is going well, but the children and their new family are coping with the effects of years of disruption on these young lives. By the time of the adoption, James was described as defiant, acting out, and having delayed speech; at least one of the children had been sexually abused; and a psychiatrist had indicated his grave concerns about Mary's future abilities.

James, Sara, and Mary are lucky in the permanent family they found, but they are far from unusual in their unnecessarily long and difficult path getting there. What are the flaws in the current child welfare system?

- Public child welfare systems have been overwhelmed by recent increases in the number of abuse and neglect reports as well as the increasing complexity and severity of family and community problems such as violence, homelessness, and drug abuse. Too often, despite the best efforts of states and communities, child welfare workers are undertrained and stretched far too thin, particularly given the life and death decisions we ask them to make.

- In part as a consequence of this overburdened system, many children - like James, Sara, and Mary - spend too many years in limbo between permanent homes. Two-thirds of the children in foster care in FY 1990 had been away from their home for one year or more, and 10 percent for five years or more. Almost 60 percent had been placed in more than one setting during their stay in foster care and almost one-quarter in three or more.

- Often, the child welfare system is isolated from the communities and neighborhoods families live in and from the services that are critically needed by families - such as mental health and substance abuse services, health care, and housing.

- And far too few resources are devoted to prevention, meaning that families often don't get help until after children have been abused or neglected.

We believe that there is an emerging consensus in states and communities across the country that child welfare services should work very differently. In many communities and many states, this new vision is emerging bit by bit. It is a vision where:

- The first priority of child welfare services is to ensure the safety of children and all family members.

- All services build on the resources and strengths of families to support children's healthy development.

- The community is the first line of support for families. While a strong public child welfare system exists, families have access to all kinds of informal family support services in neighborhoods and settings that feel comfortable and are easily accessible.

- All communities offer a continuum of child welfare services, from early prevention to foster care, reunification, and adoption. Because children's healthy development is at the center of all decisions, children spend as little time as possible between permanent settings, returning home or to a loving adoptive family as quickly as possible.

To achieve this vision will require both strong national leadership and increased state flexibility. As a former state child welfare Commissioner and now a Federal official in contact with the states, I am personally committed to ensuring that we, at the federal level, concentrate our energy where we can have the most effect on high quality services and outcomes for children and families, rather than on the more narrowly focused enforcement actions of past years.

The Federal Role

As we move ahead together to reform child welfare services, I would like to reflect briefly on the history of the federal role in protecting vulnerable children and families. Until the mid-1970's, states provided the largest share of resources in the child welfare system, and the federal government largely funded foster care for the poorest children in the system. In 1980, through the Adoption Assistance and Child Welfare Act (AACWA), Congress significantly reoriented federal involvement to direct resources and decisionmaking toward preventing inappropriate removal of children from their homes and providing services that promote reunification of children with their families or identification of other permanent homes as quickly as possible. In addition, Congress recently provided new tools and resources for states to use toward preserving families and preventing children from unnecessarily entering the child welfare system. We share the view held broadly by child welfare professionals in the field that implementation of this vision, and the protections for all children which are at its core, fell far short of its promise.

As we focus anew on how to enable the child welfare system to meet the needs of society's most troubled families, we must balance the need for state flexibility with the Federal role of ensuring accountability for high quality outcomes for children and families. On the one hand, I saw during my years in New York how state and local leaders have often brought an extraordinary commitment of resources, creativity, and innovation to child welfare services. Yet at the same time, there is a widespread consensus that performance in today's child welfare systems isn't good enough, that the consequences for children are untenable, and that performance by individual states varies widely.

The failures of some state systems have been so marked that courts in more than 20 percent of the states have found that the state systems violate the constitutional or statutory rights of the children the systems are supposed to protect. In places like Connecticut, Utah, and the District of Columbia monitors have been appointed for the systems.

I believe that the federal government has a very important role in bringing about changes in these systems. In fact, it is widely accepted that the passage by Congress of the AACWA of 1980 served as a major impetus for many of the efforts at state reform that have occurred in the past 12 years. The law required that children receive basic federally mandated child protections (known as "Section 427 requirements") such as: regular case reviews to determine the appropriateness of service and the progress of families and children; a tracking system to identify the number of children in care and their progress toward permanency; and an up-to-date case plan, which is goal oriented, for each child in foster care. There have been strong, positive results. More children are being adopted more quickly, more efforts are being made to prevent unnecessary removals, and states have implemented procedures to improve case planning and to monitor the status of children in foster care.

Yet, as I have indicated, we still have a long way to go. One major problem is, I believe, that the past Federal approach to enforcing these protections has not been fully effective or desirable. Although states made significant progress in the early years after the protections under section 427 of the Social Security Act were required, the approach to monitoring has focused both the states and the Department on literal compliance with procedural requirements - with the content of the paper found in case folders - rather than on the intent of the provisions and the attainment of quality outcomes for children.

The provisions Congress enacted last year separated implementation of the section 427 provisions from the states' receipt of title IV-B funds under the Social Security Act. We are currently reengineering our approach to monitoring and reviewing state programs, as well as determining eligibility and assessing the quality of outcomes and practice in state programs. Regular review of children's cases is vital to the effort to ensure the safety and health of children in the system. We will be focusing in new ways on partnership with states in the development of review plans and protocols; on support for change through technical assistance and the development of corrective action plans; on self-assessment by states; on the use of automated data and information systems; and on outcomes. We plan to conduct the first pilot tests of these new approaches in the spring, and issue regulations for public comment, as required by the Congress, in the summer of 1995.

In addition to this reengineered role in support of quality outcomes for children, three other important Federal roles have emerged from our consultations over the past two years with states, county and local officials, and community leaders:

- Helping state and local programs succeed through training, technical assistance, and dissemination of ideas and models. State and local leaders do not want to have to reinvent the wheel each time they come upon a problem that someone else has encountered and solved, and they want access to the best national expertise. To meet that need, we have revamped and expanded our system of National Resource Centers, sharply increasing funding and reshaping their mandate in response to concerns and suggestions from child welfare practitioners, including state officials. The five Centers, all operated by nationally recognized experts, are required to provide up-to-date on-site consultation, develop resource and training materials, and conduct research and evaluation in response to the particular needs of states.

- Supporting the development and implementation of automated information systems. State officials have repeatedly told us that both funding and technical assistance from the Federal government are critical to the automation of state child welfare service systems. Effective automation in turn reduces paperwork, frees up workers, and allows states to keep track of child and family needs, services, and flow through the system. We have been active in providing technical assistance, including an innovative partnership with five states, a non-profit organization and two foundations to produce a prototype caseworker-driven automated system. Through this activity we are working with the states to design and develop a system which gives states flexibility and reflects their need and priorities, while ensuring performance and accountability.

- Promoting knowledge and improved results through research, demonstration, and evaluation. The Federal government has a unique role to play in supporting and disseminating research and evaluation, so that states can benefit from the best available knowledge in making their individual policy choices. One recent example of the effective use of research is the Multistate Foster Care Data Archive, a federally funded collaboration with federal, state and university partners located at the University of Chicago, which has compiled and analyzed administrative data from seven large states regarding children's entries, exits and stays in foster care as well as the characteristics of children in the system. The information has been useful to the seven states and has provided key national data on nearly fifty percent of the children in foster care in the nation.

Challenges Posed by Consolidation and Block Grants in Child Welfare

We in the Administration share your belief that child welfare programs must be consistent and coherent rather than fragmented. States and communities must be free to respond flexibly to children's and families' needs rather than being hamstrung by narrow categorical programs and rigid funding streams.

We are eager to work with you as you move forward to consider a variety of approaches to improve program consistency and coherence. We understand that among the approaches under discussion are spending caps, block grants and consolidations of various sorts. As you review these approaches, we would like to raise a number of difficult issues about the potential effects of these proposals that should be considered. They deal with ensuring basic care and protection for vulnerable children; cushioning states against unpredictable increases in demand; and achieving national goals for the child welfare system.

Between 1988 and 1993, the rate of reported child abuse and neglect rose almost 25 percent, partly because of deterioration of the communities where many vulnerable children and families live. The foster care caseload during that period rose by almost 50 percent, reflecting an increased need to ensure the safety of children from the most troubled families, and the number of families receiving adoption subsidies nearly tripled.

These increases are an illustration of what contributed to a tripling of federal spending on foster care, adoption assistance and child welfare services over the 1988-93 period. These funds provided basic protections and services to the most vulnerable children in our country. Had a cap on spending been imposed in 1988, these children are likely to have been left at considerable risk. We all hope that the family and community circumstances that result in increased numbers of children in the child welfare system will be alleviated. And we hope that increased use by states and communities of preventive services, family reunification services, and adoption will allow a slowing of the growth in foster care spending. But the needs of families and children for these services are unpredictable, and may not diminish. Spending caps have the potential for imposing considerable harm.

Federal spending plays an important role in helping states cope with increased demands on their child welfare system, which vary dramatically across the states. Any block grant requires the construction of a formula to allocate funds across states. As an illustration of the effect a block grant might have on states, we looked at what would have happened if a block grant had been put in place in 1988, using a base of 1987 spending and the block grant parameters described for AFDC and other welfare programs in H.R. 4. If this type of block grant had been in place, in the aggregate, states would have lost about two-thirds of what they actually claimed in 1993. Connecticut would have lost 67 percent of what it actually claimed; California would have lost 66 percent; New Jersey would have lost 34 percent. Only West Virginia would have received more than it actually claimed. Results for all the states are shown in the attached table.

There are of course many other ways of establishing a level of aggregate spending and many possible ways of distributing it. This example is not meant to suggest that this particular proposal or any other is on the table. But it illustrates two things. First, it illustrates that demand is unpredictable and that states could be seriously disadvantaged by a block grant approach. Second, it shows that there is enormous variation among the states, which no allocation formula is likely to be able to cope with fully. It is important to think very carefully about the potential implications of any spending cap or block grant formula that might be devised.

It is also important to think very carefully about which programs are combined into any block grant, to ensure that our national goals for the child welfare system are promoted. Our vision for child welfare includes a continuum of high quality services, from services that help families deal with their problems before they become abusive or neglectful, to residential care for the most seriously troubled children.

A rational funding mechanism should encourage states to continue making improvements in their child welfare services, without penalizing states that are slower than others to begin these efforts. A rational funding mechanism should also neither skew the financial incentives toward out of home care, nor deny states the funds they need to ensure safe placements for children who need them. The Congress last summer authorized a limited number of state demonstrations to use child welfare and foster care funds more flexibly. These demonstrations, with careful evaluations, should provide a good deal of information and experience useful in designing a funding mechanism best suited to the vision.

Finally, as we consider how to best achieve our national goals for the child welfare system, it is essential to consider the consequences of any proposal in terms of the safety of children and the stability of families, as well as the ability of foster and adoptive families to nurture and raise the children who need them. For example, under the Adoption Assistance program, states currently provide support to families who adopt children meeting the criteria developed by that state for special needs, until the child is 18; the Federal government is obligated to provide reimbursement for those expenditures. If adoption assistance were to be blended into a block grant, states could be forced to choose whether to continue payments to current adoptive families or to enroll new ones, and families who had chosen to give their love and support to a child on the expectation that they could receive some modest help in paying for services required to meet the child's need would face a painful dilemma.

Conclusion

Given the critical nature of these child welfare services, we must be careful to construct an approach to change that balances flexibility for states and communities with the need for a national framework, accountability for outcomes, and effective protections for children and families. We must also assess carefully the likely impact of each approach on states, communities, and families. We look forward to working with this Committee, the Congress, and the states to revitalize these essential services to support the safety and healthy development of children.

I'd be happy to answer any questions at this time.

Hypothetical Impact in FY 1993 if a Child Welfare Block Grant Similar to the PRA Welfare Block Grant Had Been Adopted In FY 1988, Using FY 1987 Levels

(Dollars in Millions)

	FY 1993: Actual State Claims a/	Block Grant: 103 percent of FY 1987 level	Difference b/	Percent Change
Alabama	$12	$7	-$4	-38%
Alaska	6	1	-5	-83%
Arizona	26	7	-19	-72%
Arkansas	14	4	-10	-70%
California	545	186	-358	-66%
Colorado	26	11	-15	-58%
Connecticut	22	7	-14	-67%
Delaware	3	1	-1	-57%
Dist. of Col.	13	6	-7	-55%
Florida	67	18	-49	-74%
Georgia	36	17	-19	-52%
Hawaii	4	1	-4	-83%
Idaho	4	2	-3	-62%
Illinois	137	41	-96	-70%
Indiana	50	8	-43	-85%
Iowa	20	7	-13	-64%
Kansas	24	7	-17	-73%
Kentucky	42	12	-30	-72%
Louisiana	43	20	-23	-54%
Maine	14	6	-8	-55%
Maryland	51	19	-32	-62%
Massachusetts	69	9	-60	-88%
Michigan	136	76	-60	-44%
Minnesota	42	15	-27	-64%
Mississippi	9	5	-4	-46%
Missouri	40	21	-19	-48%
Montana	6	3	-4	-60%
Nebraska	13	5	-8	-60%
Nevada	5	1	-3	-68%
New Hampshire	9	2	-7	-76%
New Jersey	37	24	-13	-34%
New Mexico	10	5	-4	-44%

Hypothetical Impact in FY 1993 if a Child Welfare Block Grant Similar to the PRA Welfare Block Grant Had Been Adopted In FY 1988, Using FY 1987 Levels

(Dollars in Millions)

	FY 1993: Actual State Claims a/	Block Grant: 103 percent of FY 1987 level	Difference b/	Percent Change
New York	852	237	-615	-72%
North Carolina	28	10	-18	-66%
North Dakota	7	2	-5	-68%
Ohio	128	39	-89	-69%
Oklahoma	15	8	-7	-48%
Oregon	20	12	-9	-43%
Pennsylvania	200	55	-144	-72%
Rhode Island	14	5	-9	-63%
South Carolina	16	8	-8	-50%
South Dakota	4	2	-3	-61%
Tennessee	26	8	-18	-71%
Texas	105	36	-69	-66%
Utah	10	4	-6	-62%
Vermont	9	5	-5	-51%
Virginia	22	9	-13	-57%
Washington	28	9	-18	-66%
West Virginia	7	9	2	33%
Wisconsin	55	23	-32	-58%
Wyoming	2	0	-2	-86%
Territories	9	4	-4	-48%
U.S. TOTAL	$3,092	$1,039	-$2,053	-66%

NOTES:

Programs in the Hypothetical Block Grant Include Foster Care (Maintenence, Administration, and Training). Adoption Assistance (Maintenence, Administration and Training); and Title IV-B Child Welfare Services.

a/ Dollar amounts reflect state claims, adjusted for disallowances.

b/ May not add due to rounding.

Chairman **JOHNSON**. Thank you, Madam Secretary.

There certainly is a lot of common ground between us, and I am pleased that your testimony does recognize the difficulties of the current system and the degree to which valuable resources are steered into unproductive avenues. Certainly, to redefine a new partnership between the Federal Government and State government in regard to the management of moneys available for child welfare purposes is a challenge that I think we must not fail to meet and it is one that you are well prepared to work with us on and I believe we are well prepared and willing to work with you on.

I do regret your example of the impact on States of a capped block grant, starting with 1987, going back some years. First of all, no one, no one, no Republican has proposed capping spending without any regard for inflation or numbers or institutional care, no one. And I want the record and the audience to understand that. Because if we are going to work together fruitfully to make the very kinds of changes that interest you and that have long interested me, we have to be absolutely clear that we will destroy ourselves, this Congress and our form of government if we can't do politics a little better than that. And I am dead serious about this.

You will remember that I proposed a bill when Tom Downey and I were working on this very subject which would have capped spending in a way that, frankly, States would have more money now than they do because while it would have become a capped entitlement, every year the baseline would have risen for inflation and numbers of children and, frankly, at the time the States would have gotten both flexibility and money. So I just want it absolutely clear that no one is talking in those terms, that what we are talking about is looking at a system that has all too often looked at paper, not children's lives, that has thousands of State employees doing reports when they don't have time to tend to families. So that is our common ground and I am very pleased that your testimony so clearly delineates that common ground.

I want to start with a couple of questions and then I will yield to my colleagues and come back later for those that haven't been covered.

First of all, if we eliminate rigid Federal procedural requirements and reduce the paperwork burden and administrative costs necessary to comply, won't this free up significant resources that the States could use for services and won't it also free up resources in your own department, and have you done any analysis of what that impact would be on either your department or the States?

Ms. **BANE**. We have done some analyses and are obviously doing more, Madam Chairman.

I know that you have been concerned about the paperwork issue, and when I was commissioner in New York, caseworkers always yelled at me about paperwork. And I, when I was a commissioner, spent a fair amount of time with caseworkers, sitting with them, going through their days and so on to see what we could do about the paperwork. And as best I could tell, there were three types of paperwork that the caseworkers were complaining about.

The first had to do with doing case plans, that is, with writing up their notes, with writing up what they had done and what they were planning for the children. And although I was sympathetic to the fact that we might be able to do our forms better and that we might be able to make it easier for them to do that paperwork, I was actually convinced that what they were calling paperwork really was an important part of service provision, an important part of dealing with families and children.

A second part of the paperwork that they complained the most about to me and that I observed them doing as I sat with them was the paperwork related to court appearances. It depended a lot on jurisdictions obviously, but caseworkers had to spend a fair amount of time preparing papers for courts and sitting in courts and going through those things, and again, it seemed to me that we could work on ways of doing that more effectively and efficiently. But again, the core of what they were doing was really quite important.

The third thing they complained about was the paperwork that was involved in meeting Federal requirements for eligibility determination and Federal requirements for reporting. That, frankly, was way down on their list of paperwork requirements. And again, we want to work on how to do those more effectively.

But my sense was that we needed to help caseworkers do their jobs more effectively but that it really wasn't in fact either the Federal protection requirements or our State regulations—they, by the way, saw it all as a State problem, not as a Federal problem, which I thought was interesting. We can certainly make some improvements, but it didn't look to me like it was a real large amount of resources.

Chairman JOHNSON. That is interesting, because the last time we held hearings on this subject when Mr. Downey was chairman of this subcommittee, we had testimony from socialworkers that they were using 80 percent of their time on paper with only 20 percent of their time for families. And while that may be an exaggeration, my own experience with the amount of time my own department has spent making reports to the Federal Government, arguing about reimbursement rates, fighting and negotiating, is simply extraordinary. And so I think we do need to find some way to get a more precise and honest understanding of the degree to which the mechanism has become the object. And if you care to submit later on any more precise information by looking at your department, what would happen, whose jobs would be affected, what resources would be freed up, we are at some point going to need that information. I know that is hard to do.

I remember specifically holding these kinds of hearings at the State level and being told afterward by some administrator, I couldn't possibly tell you that and run my department, too. So I understand there is some conflict of interest there.

But we are going to be able to determine that more accurately. Maybe not for our own bureaucracy. But for those kinds of reasons but certainly at other levels so that we can make a more honest determination about what kinds of moneys this will free up.

Ms. BANE. May I speak to that, Madam Chairman?

Chairman JOHNSON. Yes.

Ms. BANE. On the Federal level, we have slightly fewer than 100 Federal employees involved in the child welfare system. And you know, it is hard to make estimates, but the total administrative budget for my agency is $164 million. I can't imagine that more than a quarter—and I suspect quite a lot less than that, is involved in the child welfare area. So that gives you some idea of the order of magnitude. The resources and personnel involved at the Federal level are a tiny fraction of the total work force in child welfare.

Chairman JOHNSON. Certainly, when you multiply it by the 50 States.

Last, let me just say if we do pursue a block grant of child welfare and foster care programs, what minimal standards would you recommend accompany those or would you like to get back to that subject? Perhaps you can talk about it generally and then in the course of events get back to that more specifically.

Ms. BANE. I think maybe I could talk generally now and then I hope that we will have opportunities to continue this conversation. It does seem to me that any approach to a Federal-State partnership would involve some Federal standards and Federal protections——

Chairman JOHNSON. Of course.

Ms. BANE [continuing]. To ensure the safety of children, to be sure they are oriented toward permanence and to assure they are looking out for the well-being of children. I would hope that we could formulate those more as results and outcomes for the system than as processes, though I think we will always have to have some procedure.

Chairman JOHNSON. Have you begun thinking about those?

Ms. BANE. We have. We have also been working with the States in ways that we are very excited about to try to see if we can't focus those protections more on outcomes and results.

I would also suspect that any approach to child welfare services would want accountability for Federal money to ensure that it was being spent for the purposes and for the children that the Federal money was meant to serve and, finally, that it was being used in very efficient ways. I think that we can work with you, we can work with the States to develop effective approaches in that regard.

[The following was subsequently received:]

In the last session, the Congress changed the section 427 dollars from incentive funds to an allocation based on State assurances that the essential protections were in place. This was a major step toward reducing the time spent in resolving disputes over disallowances. in the future, HHS plans to monitor the State's provision of the protections and to provide technical assistance in those instances where the protections are missing. The time spent documenting, negotiating, and appealing our fiscal decisions will be significantly reduced. That time will be used to develop corrective action plans and provide technical assistance.

Chairman JOHNSON. Thank you. And I will yield to my colleague, Mr. Matsui, from California.

Mr. MATSUI. Thank you, Madam Chairman.

In terms of the issue of flexibility, under current law, do you have the ability to waive requirements under child welfare programs IV–E, IV–B, and others?

Ms. BANE. Mr. Matsui, we don't have general authority to waive requirements as we do for the AFDC program. What we do have as a result of the legislation that was passed last summer is the authority to put in place 10 State demonstrations where we can waive many of the requirements of IV–B and IV–E. I am really excited about that. I think that is going to give us and the States the opportunity to explore some really creative approaches, and I think that by having a limited number of them we can make sure that the demonstrations that do in fact take place will help us learn and will help children and families.

Mr. **Matsui**. In fact, that is Chairwoman Johnson's suggestion, I think, in the legislation, her amendment.

Ms. **Bane**. I am delighted.

Mr. **Matsui**. Let me ask you with respect to that program, obviously it was October I guess of last year so, the implementation is—you are working on that now, is that right?

Ms. **Bane**. That is correct.

Mr. **Matsui**. And identifying some of the potential participants?

Ms. **Bane**. That is correct.

Mr. **Matsui**. And without obviously being too specific, what areas are you looking at? I mean, where are some of the needs that need to be—or problems that need to be addressed?

Ms. **Bane**. Well, different States, I am sure, are going to come in with different kinds of approaches. I know that some States are looking at ways to have some flexibility in the funding stream so that they can give the agencies that actually deal with children a wider range of approaches. And I think that is the thing that we are going to be looking at, ways that the States can figure out how to use the total amount of funds that are available to them in more creative ways.

Mr. **Matsui**. I would imagine some of the administrative cost issues will come up in this as well; is that right? In other words, how you can reduce costs and use the dollars more efficiently.

Ms. **Bane**. I assume so.

Mr. **Matsui**. Let me ask you, last, about the paperwork issue, because obviously that is one that will be discussed more and more, I believe.

I have reviewed the court system in California. I visited our juvenile court system a number of times and have even been to Los Angeles and talked to some of the judges there over the years. And obviously the paperwork involved when the caseworker presents the case—not presents the case, but when the attorney as guardian presents the case, they have to have the backup information.

In your role as commissioner, I guess in New York and also here as the Assistant Secretary, is there some way to find efficiency? Because that seems to be the largest paperwork burden, if you want to call it that, that the caseworker has. We need—they need to make sure the record is complete. They need to make sure their allegations, whatever they may be, are complete.

Ms. **Bane**. I think the trick here, Mr. Matsui, is to try to distinguish the necessary, useful, and helpful paperwork from the paperwork that we can try to streamline. I believe that using case planning tools and service provision tools is really very important, and that it is important to have written records of contacts with children because caseworkers turn over and need to be able to share with other caseworkers that work.

I do think, though, that we can streamline the process. The family preservation and support legislation that was passed a year ago last summer included some funds and a mandate for grants to the States to try to improve and streamline their court systems. And again, I think this is a very exciting opportunity for us to see what we can do.

Mr. MATSUI. The reason I asked this line of questioning is because I think what you say, the turnover issue, you see, is a pretty difficult issue to deal with. I mean, it sounds easy when you are sitting here, well, you don't need much paperwork. But the caseworker may change.

I think it was 4 or 5 years ago, the medical records of young children in the foster care system were not transferred from placement to placement. That was a big fight. I think the advocacy groups were very helpful. I didn't even realize medical records weren't transferred with the child. But when the child goes from State to State, five to six foster care families over a 5- to 10-year period, those records don't usually go with the child, or education records. And so you need—you need to make sure that there is an adequate paper trail behind that child because the child usually doesn't have one custodian.

My child—our only son or only child, 22 years old, my wife and I know everything about him. We think we do. We don't anymore but we used to. But the fact is if that child were in the foster care system when he was 2 years old, I don't think anybody would really understand that child's history. And I think we need to make sure we understand that.

So when we complain about paperwork and the bureaucracy, there is another element to it. These kids need a file because most people won't be with that child for an indefinite period of time.

I have no further questions.

Chairman JOHNSON. Thank you and I will recognize now Mr. Hancock.

Mr. HANCOCK. There is just one question that I would like for you to explain for me on page 3 of your testimony. You state that 20 percent of the States have found that State systems violate the constitutional rights of children. Would you define exactly what you mean by "constitutional rights of children" in your testimony?

Ms. BANE. I believe that in most of the cases, they were findings that related to State statute rather than necessarily to the Constitution, though I think there were some equal protection claims explored in some of the cases. In many of the cases, the finding of the court was that the system, the child welfare system, was failing to provide basic physical care, safe care to the children in custody of the State.

Mr. HANCOCK. But you are defining that as a statutorial right rather than a constitutional right.

Ms. BANE. As I say, in some of the cases it was done on statutory grounds, in others it was done on equal protection grounds, and in some it was done on State constitutional grounds. We can get you——

Mr. HANCOCK. Primarily under the equal protection law, the equal protection of the——

Ms. BANE. Mostly under the due process clause, I am told.

Mr. HANCOCK. Under which?

Ms. BANE. Under the due process clause, that is, the children and their families weren't afforded due process. We can get you an analysis, if that would be helpful.

Mr. HANCOCK. I would like to have more information on that, the determination of your department of just what constitutes constitutional rights. I would appreciate it if you would get me some information on that.

Ms. BANE. We certainly will. These were, of course, court determinations, not ours.

Mr. HANCOCK. Thank you, Miss Chairwoman. Thank you.

[The following was subsequently received:]

Litigations have been brought by advocates for children based on State law, Federal law, and the U.S. Constitution. The constitutional grounds have been based on substantive due process rights—specifically the right to freedom from harm while in State custody.

Chairman JOHNSON. Mr. Herger.

Mr. HERGER. Thank you very much, Madam Chair. And it is good to have you with us, Secretary Bane.

My question, you state in your written testimony that Federal funding for child welfare increased by 300 percent since 1987, yet I see on page 5—and I believe you mentioned in your oral testimony the reports of child abuse and neglect increased only 25 percent and foster care placement increased by only 50 percent, indicating that factors other than increase in caseload have resulted in increased Federal spending.

What, in your opinion, were these other factors, the difference between the 300 percent and——

Ms. BANE. Mr. Herger, I think there were a number of things going on and I actually don't think we understand them all fully and we do need to understand them better.

Caseloads were going up. The difficulty and complexity of the cases also appeared to have been going up in many, many States. Madam Chairman mentioned the increase in crack cocaine, along with the increase in the number of children who were coming into the system as infants. So it was not only the increase in caseload but the increase in the complexity of the caseload.

A second thing that was going on was that States were involved in trying to improve the quality of their child welfare systems. They were trying to improve their preplacement services. They were trying to improve their case management services, and they were able to claim Federal funds for that, quite rightly.

A third thing that was going on—and I know this has been a topic of some concern, is that the States were taking advantage of the opportunities in Federal law to claim Federal funding for many of their costs, quite legitimately, I must say.

One thing I think a lot of people don't realize is that the Federal Government funds only about 40 percent of the child welfare system and the child welfare services in this country. And as the Federal spending was increasing, I know for a fact for New York, and I assume this is true in other places as well, that State spending was also going up a lot. So both the States and the Federal Government were responding, I believe, to a tremendous increase in need, as well as an impetus to try to improve the services that they were offering to children and families.

Mr. HERGER. You also state that States and communities should not be hamstrung by narrow categorical programs and rigid funding streams. Specifically, could you tell us what programs and funding streams you consider too narrow? Which ones you would recommend to be combined?

Ms. BANE. I don't think I am in a position at this point to make any specific recommendations to you. I know that many people are proposing that we look at a number of the programs that deal with child welfare to see if there can't be some flexibility, and as I said to Mr. Matsui, I think the opportunity that is afforded us by the demonstration authority last summer will allow us to work with the States to identify those places where flexibility will be the most useful and helpful in improving the system.

Mr. HERGER. OK. Thank you.

Chairman JOHNSON. Thank you. I would like to emphasize, though, that being more specific about rigid funding streams and narrow categorical programs now is really important, because as important as those demonstration projects were—and I fought many years to get them in line, they will take awhile to put in place. It will be awhile before we understand them.

I don't know whether the teen suicide prevention money is still a separate line item, but that is exactly the kind of thing that is driving my agencies absolutely crazy, because it prevents a holistic approach to family problems. So we really do want to make sure that as we make change, we address some of the very specific needs.

I also would want to point out in followup to Mr. Herger's comment about the chart and about claims, there is a big difference between claims made and claims received, as you in New York know very well. I think your difference one year was $178 million. And your chart does deal with claims made. And that is a problem that I have with it and I would hope that the information that we pass between your department and this committee or other subcommittees of Ways and Means will be a little bit more realistic, because I think it will enable us to work together more fruitfully.

Ms. BANE. I think we did take account of disallowed claims. I will check on that for you and get back.

Chairman JOHNSON. Do check on that. Because the way it is worded both in your testimony and on the chart, it implies that that is not the case.

Ms. BANE. I think we did take account of that. You are quite right that we need to.

Chairman JOHNSON. Thank you.

[The following was subsequently received:]

The answer is correct. We did take into account the claims which were disallowed.

Chairman JOHNSON. Mr. Levin, please.

Mr. LEVIN. Thank you.

Let me pick up on the discussion about the chart, because I think the Chairwoman's discussion provides some ray of hope that we can find some common ground. And I would like to talk to you about the general underpinnings of this discussion. The last couple of weeks, Nancy, actually there have been some proposals to block grant at a set level without regard to inflation or caseload. That came up in the AFDC discussion.

Chairman JOHNSON. If the gentleman would yield. I don't think it has been clear in those discussions exactly what the block grant cap would be tied to because there is no agreement yet on that issue and there certainly is no legislative language.

Mr. LEVIN. No. Governors were asked whether they would be willing essentially to take the provision in the Contract which is 103 percent of the total amount for each fiscal year for the next 5 years. The response from several Governors was that they would take that bargain, and a number of our colleagues indicated that a block grant might look like that.

And I am very much in favor of much, much more State flexibility. I would have us move to a different kind of Federal-State relationship. But the question is whether there will be any Federal role whatsoever, whether there is room for a Federal role, whether we want to essentially partnership or we want total State responsibility with the only State-Federal function being funding, which eventually might be phased out and replaced with a lower rate of taxation federally and let the States pick that up. That is the consequence, I think, of one position, just block grant it at an absolutely straight level.

So your resistance to that idea I find encouraging, though others have said the block grant might look like that. So I want to ask you——

Chairman JOHNSON. I am merely pointing out in the technical language of the Contract bill, the capped entitlement is adjusted both for numbers and inflation. While there have been conversations with the government, there is no proposal on the table that doesn't allow significant adjustment.

Mr. LEVIN. Well, let me just read to you the option in the Contract. It says in lieu of any payment under any other subsection—this is AFDC—the Secretary shall name payments to the State under this subsection for each fiscal year in an amount equal to 103 percent of the total amount to which the State was entitled under this section for fiscal year 1992. And what this chart said, and a similar chart was presented at the hearing on AFDC, if that system had been in existence in 1988, this would have been the impact in the year 1993. That is what it says.

Now, I am trying to agree with you in your resistance to that idea. I just think it is not fair to say that no one has proposed this approach. And what I am in favor of is a very candid, forthright discussion of Federal-State relationships in AFDC and in the child welfare area.

As someone who for years has been in favor of much more State flexibility, the question is whether you are going to take it to the point where several Governors and others who testified a few weeks ago want to go, that is, the only Federal function is to get out of the way. And I asked the Secretary this question about AFDC last week so I won't ask you the same question here. Because in your testimony, you say—I will quote just a couple portions:

On page 3, the need for State flexibility with the Federal role—excuse me, of ensuring accountability for high-quality outcomes for children and families. And then on page 3, "I believe the Federal Government has a very important role in bringing about changes in these systems." And then on the last page, you suggest "an approach to change that balances flexibility for States and communities with the need for a national framework, accountability for outcomes, and effective protections for children and families."

So I think this is the question and you bring the experience not only of your role here but your role in New York. Why should the Federal Government be involved at all except perhaps to be a continuing funding source until perhaps that is phased out? But why should there be any balance at all?

Ms. BANE. Mr. Levin, I think the best way to respond to that question may be to think back to the situations in the States that generated the impetus for the Adoption Assistance and Child Welfare Act of 1980.

That act was developed and passed by Congress because of pretty terrible things that were going on in the States and that were coming into public view. I think that act was generated and passed because many States didn't have the capacity to deal with the needs that were being generated by their children and families and the sense that we, indeed, did have a national duty to the children that were involved.

And I think that legislation, although it has not been implemented perfectly and I don't want to defend everything about that legislation, I think the concepts and the ideas behind that legislation—to ensure children were being dealt with in ways that ensured their safety, that State systems were focused on permanence, not on letting kids drift around from one foster care home to another, and that States were pushed to put in place a continuum of services so that they could deal with the needs of families and children—I think that legislation had big effects and I think that we still need that kind of national commitment and national help to the States.

Mr. LEVIN. And you think we still need it because?

Ms. BANE. Because I think the children and families are still in trouble. Because I think the States vary enormously in their capacity for dealing with these problems, and to some extent, in their will for dealing with these problems. And so I think that both national leadership and national funding is real important.

I also think, Mr. Levin, that the States are not in a position each and every time to create everything anew. I think there is a very important role for helping to provide some experience, some information, some national leadership in these really important areas.

Mr. LEVIN. Thank you.

Chairman JOHNSON. I do want to just clarify for the record, Mr. Levin's statement about the 103-percent increase, because the Contract bill has not been widely read. The Contract bill does block grant a lot of programs together, and allows that capped entitlement to grow and accommodate for both inflation and numbers.

There is within the Contract bill an option for States to completely take over just their AFDC program. It is for those States that completely take over their program, remember, thus freeing themselves from all Federal constraints, that would be subject to the 103 percent, the theory being that if they were running this program themselves much more flexibly—in a way that got women into the work force in a much more flexible fashion, that being guaranteed that their grant would grow by 3 percent was really quite generous, if in fact they were able to do the better job than they say they are able to do.

So the 103 percent does not honestly quote what the bill does in regard to its larger capped entitlement approach, which it does allow to grow for both numbers and for inflation. So I wanted to get that clearly on the record. And I will then——

Mr. LEVIN. Will the gentlelady yield just for 1 second?

Chairman JOHNSON. Yes.

Mr. LEVIN. So there is no misunderstanding, I read and said it was an option. But——

Chairman JOHNSON. It is also in regard to only one program, AFDC.

Mr. LEVIN. That is true, that is true. But in fairness to what went on the last couple of weeks here, this issue of converting to a block grant at a set figure became the focal point of discussion on welfare reform. And a number of people expressed a belief that the option that is in the Contract might well become the model for block granting. And some concerns were expressed, some questions were raised by myself and others, including the issue of what is the national interest.

And so I think it is accurate to say that in the last several weeks we have had a discussion during which one idea has been to essentially turn the option in the Contract into a basic approach for block granting. And I—I am encouraged by your statement that as we look at block granting, we need to look at issues like inflation, like caseload, like needs.

Chairman JOHNSON. I certainly appreciate your concern with how block grants would have to be adjusted in the future. And I also certainly recognize the vitality of the discussion that is going on between the Governors and members of the Human Resources Subcommittee. But I did want to make clear that in the Republican proposal, in the Contract, which is far more conservative, if you will, than the Republican proposal approved by the Republican Conference, that even in that proposal there is no provision for freezing. And that is what the chart that has been presented to us is based on, and I regret that very much.

But I also wanted to make clear that even in that narrow portion of the bill that uses the 103 percent, that is only the part of the bill where the States get to opt, if they choose, to completely take over their AFDC program. So I wanted that clear.

I also want to make clear that in no form of any bill has anyone proposed capping foster care maintenance payments, which of course are the largest dollar amounts of the Federal contributions to the child support programs that we are discussing here today.

Mr. LEVIN. We will be discussing that. If you look at the capping provision in the Contract, it doesn't take into account a number of the factors that you have referred to. It talks about the change in the poverty population. But my point was not to be critical of what you said, but to be encouraged by it, and to say that I think the chart that was presented by HHS does have some relevance and to suggest, further, that as we look at this whole issue of a reworked State-Federal relationship, that we keep in mind what was testified to in the last few weeks.

Thank you.

Chairman JOHNSON. Thank you, Mr. Levin.

Mr. Zimmer.

Mr. ZIMMER. Thank you, Madam Chairwoman. I think that the discussion that has gone on between you and Mr. Levin is very helpful. It may seem technical, may seem abstruse, but it is important that we discuss policy initiatives on the common basis of fact. And I think we are struggling toward that common basis of fact. I don't think we have reached closure on that.

But there is no way we are going to have a useful policy discussion if we continue to deal with strawmen and misleading and sometimes downright phony figures and assumptions. Along that line, I would like to go back to the chart that you presented us.

You used a defined period from 1988 to 1993 as the base for your chart, and could it not be that that time period, which was a period of enormous growth in title IV–E, administrative costs, would distort the picture?

As I understand it, the growth in the title IV–E administrative costs program in the late eighties and the early nineties was due to the fact that the States were aggressively pursuing claims for IV–E administrative cost matching funds for preventive services that should have been covered by IV–B, child welfare program funds.

Ms. BANE. Let me just speak of the chart for 1 minute, and then try to speak to that again.

We did about, I don't know, 25 versions of this chart, you will not be surprised to learn. And my advisers said that we could only submit one with the testimony or it would be too confusing. We picked this one for the reason that Mr. Levin noted, that it was analogous to the one we had presented on AFDC 1 week ago, and the one on AFDC we built from the block grant provision in the Contract bill. Obviously there are many other ways.

We did do one that adjusted for inflation. The State patterns looked the same. It shows in aggregate that the States would have been only 40 percent worse off than they would have been, instead of 60 percent worse off, but shows the same kind of things.

We would be happy to do any other analyses that would be useful for you. In terms of your question, the 1988–93 period was indeed a period of great growth in the foster care caseloads. In the AFDC caseloads it was also a time of growth.

Again, if I might speak back to my experience in New York on this, I was worried about these programs in 1987; I was working in New York at that time. At that point, we were enormously relieved that the foster care caseload and our foster care spending had finally leveled off, and believed that we were actually in a quite good position to face the future.

So I think if I go back and put myself in that position in 1988, I did not in fact predict what was going to happen between 1988 and 1993. I think the thing to keep in mind as we do any of these simulations or look at these is that it really is very hard to predict what is going to happen, and all that says is, let's just be real careful as we try to think about how to construct these.

Mr. ZIMMER. I am all in favor of being careful, but I think we ought to deal from the top of the deck.

Isn't it true that one of the underlying purposes of the Family Preservation Act of 1992 was to restrict the rate of growth of title IV–E administrative costs?

Ms. BANE. The hope of the family preservation and family support approach was that by the provision of services to families before and during placement, States could develop a system in which there would be less need for out-of-home placement, and that there might, as a result, therefore, be less need for maintenance payments in the foster care system and payments to institutions.

I think that there was also some hope that family preservation and support would contribute to the services that the States were able to provide. I don't remember it being specifically focused on administrative costs, but I could be——

Mr. ZIMMER. Well, isn't it a historical fact that there has been a leveling off of the rate of growth of the IV–E administrative costs program in the last few years?

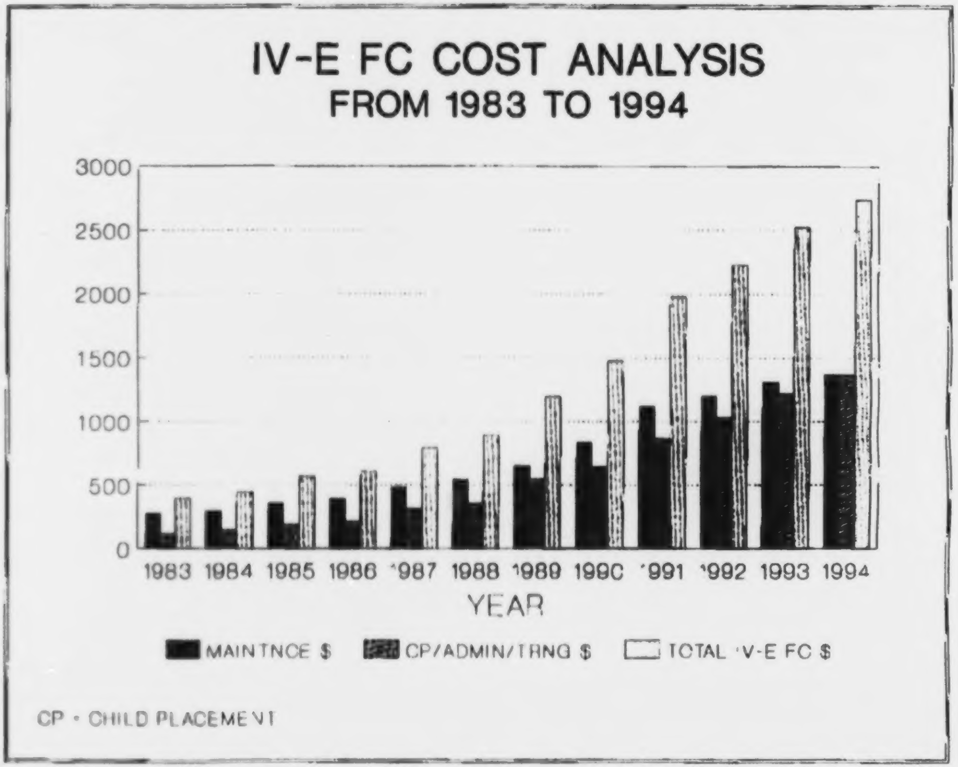
Ms. BANE. Actually, what is interesting about that is that—we looked at it State by State. And what happens is that for each State, there tends to be a 2- to 3-year period where what they are claiming under the preplacement administrative and services piece, that is, the nonmaintenance piece goes up very sharply. And that is the period at which they are expanding their system or realizing that they can get more Federal money. And you see that, and then it does level off.

Not all the States have been through that period, however. Not all the States are yet at a point with their child welfare systems where they are taking full advantage of the opportunities they have for Federal participation. So I frankly would continue to anticipate some growth, although perhaps in the future we will see some leveling off.

Mr. ZIMMER. Nationally, since the passage of the 1992 act, has there been a leveling off?

Ms. BANE. I am sorry. We have a chart which I should probably submit for the record, rather than trying to show it to you. It shows continuing growth since 1992 in the nonmaintenance piece, and also continuing growth in the maintenance piece. It is not quite as sharp as in some of the earlier years. I think also, though, that although the Family Preservation and Family Support Act was passed in 1992, the first year was basically a planning year. So we haven't seen any results from that act yet reflected in the operation of State systems or in their claims.

[The following was subsequently received:]



IV-E FC COST ANALYSIS
FROM 1983 TO 1994

CP - CHILD PLACEMENT

TITLE IV-E FOSTER CARE

Funds can be used for:

Payments (FMAP):	**Benefits paid on behalf of the child to a foster parent or institution.**

Child Placement Services and Administration (50% FFP):

- ○ Recruiting foster homes
- ○ Licensing foster homes
- ○ Preplacement activities:
  (prior to a child being placed in foster care)
  - Placing child in home
  - Preparing case plan
- ○ During placement--Case management activities:
  - revising case plan
  - preparing for and appearing in court
  - arranging for and getting child treatment services
  - working with child's parents and foster parents on current and planned future steps and problems
- ○ Computer systems (75% FFP enhanced match is available through FY 1996)
- ○ Normal Administration

Training (75% FFP):	State agency staff--related to Title IV-E Foster parents and adoptive parents Member of State-staffed or State-approved institutions

Mr. ZIMMER. So that ought to make an even stronger case for the fact that we ought to expect the growth to be slower in the future, if it hasn't had its full impact yet.

Ms. BANE. Oh, I hope and pray the growth will be slower.

Mr. ZIMMER. So it is very difficult to make predictions on the basis of extrapolation?

Ms. BANE. That is correct.

Mr. ZIMMER. But do you really believe that we are going to see growth in the future at the same rate that we saw it between 1988 and 1993?

Ms. BANE. As I say, I hope and pray that we won't.

Mr. ZIMMER. Do you expect that we won't or do you expect we will?

Ms. BANE. I think we are going to continue——

Mr. ZIMMER. You are the professional here.

Ms. BANE. I know. As I say, I am thinking back to sitting in front of a New York State Legislature in 1988 and confidently predicting that foster care and child welfare expenditures were going to level off, and being proved wrong. So I have become slightly more cautious about making predictions.

As I say, we hope that it will level off. We hope that States will be able to make the improvements that will bring it about. But I am going to be cautious about making predictions.

Mr. ZIMMER. Well, obviously you should be cautious, but I think there is good reason not to use the worst-case time period, with the period of steepest growth, to predict the terrible catastrophe that would happen if there was a freeze of the sort that we have already learned was not proposed.

Thank you very much.

Thank you, Madam Chairman.

Chairman JOHNSON. Thank you, Mr. Zimmer.

We will go now to Mr. Johnson.

Mr. JOHNSON OF TEXAS. Thank you, Madam Chairman.

I have been told that child welfare block grants to States, or grants that are made to States at this time, that we authorize 75-percent Federal matching grants, and according to our information, they are distributed to the States on the basis of their under-21 population and per capita income. Is that correct?

Ms. BANE. That is correct, as it——

Mr. JOHNSON OF TEXAS. Well, I am also told that the reporting requirements are minimal, and there are absolutely no reliable national or State-by-State data on the exact number of children served, their characteristics or the services provided. Furthermore, that there are no Federal income eligibility requirements. Is that true?

Ms. BANE. It is partly true and it is partly not true. The formula to which you refer is the formula by which $300 million in IV–B child welfare money is distributed to the States.

Mr. JOHNSON OF TEXAS. Last year I was told $294 million. Is that right?

Ms. BANE. Yes, that is correct, $294 million.

Mr. JOHNSON OF TEXAS. Let's use real numbers. That is what Mr. Zimmer was talking about.

Ms. BANE. I just was rounding up.

Mr. JOHNSON OF TEXAS. There is a lot of difference between 294 and 300.

Ms. BANE. Thank you.

Mr. JOHNSON OF TEXAS. Go ahead.

Ms. BANE. I am sorry, reporting requirements. It actually has been the case, Mr. Johnson, that we have had very little and not very good information about child welfare systems in the States and about the effectiveness of programs. That is one of the reasons that Congress both required a new reporting system and authorized funding to the States for computerized systems, so that they would be able to do a better job of managing their child welfare systems. All the States now are engaged in computerizing their systems and developing an automated case management approach, and in using those automated systems to meet not only their own but Federal reporting requirements.

So we are coming to be in a position where we will have a lot more information and States will be able to manage their programs much better, because of automation.

Mr. JOHNSON OF TEXAS. Well, I am not sure computerizing is the absolute answer, because you don't always get good input. But concerning section 427, do you favor forgiving States who fail those past reviews?

Ms. BANE. We are actually very pleased that Congress last summer made changes in the legislation so that we would have a more flexible approach for working with States. What you passed last summer allows us to develop corrective action plans with the States, to do periodic reviews and to make sure that any penalty that we assess is commensurate with the degree of failure. And I think that is a more sensible approach than the all-or-nothing approach that was in the earlier legislation.

Mr. JOHNSON OF TEXAS. Well, are you assessing penalties on the States now?

Ms. BANE. We are assessing a set of penalties now for failures which took place in a previous period.

As you know, Congress put a moratorium on our taking disallowances for a couple of years, but last October removed the moratorium. We were told that those disallowances now constitute debts to the Federal Government, which we are required under prudent financial management to collect. And we are proceeding to collect those debts which have been firmly established as being owed. We are trying to do very carefully what the law requires.

Mr. JOHNSON OF TEXAS. So what you are saying is, you are punishing the States and the kids because there is not going to be that money there for them. And you are answering my question that you are not forgiving the States for past reviews.

Ms. BANE. We are not forgiving the States for the past debts that were incurred as a result of those reviews. As I say, our legal analysis is that the law required us to do this.

Mr. JOHNSON OF TEXAS. So you are punishing the States and punishing the kids. That is all I wanted to know.

Thank you, Madam Chairman.

Chairman JOHNSON. Mr. McDermott.

Mr. MCDERMOTT. Thank you, Madam Chair.

Dr. Bane, we appreciate your coming up here and testifying. You share with us, I think, the same difficulty; that is, it is very hard to come up and react to legislation by press release, because there is nothing on paper.

I know why you had to do 25 charts. We hope there is going to be some kind of bill available on February 6 when they start to mark up welfare reform, so we can actually look at some real figures.

But I am mindful of your history, and I thought of George Santayana, who said those who fail to learn from history are doomed to repeat it. And my own career was 15 years in the State legislature before I got to Congress.

Where were you from 1980 to 1985? What was your professional responsibility at that point?

Ms. BANE. That is a good question. From 1980 to 1983, I was at the Kennedy School of Government being an academic; from 1984 to 1987, I was at the New York State Department of Social Services as the number two person.

Mr. MCDERMOTT. OK, good, that is what I want to know.

I was down at the State level as ways and means chairman in the State legislature the last time this government went through the block grant business. We called it "block and chop," because when they blocked, they always chopped off some. And we always wound up with less.

Can you talk a little bit about the history of why the Federal Government first got involved in welfare. Mr. Levin's question prompted you a little bit, but the Federal Government didn't run out there to get involved in the States' business because the States were doing it so well?

Ms. BANE. I believe that is correct, yes.

Mr. MCDERMOTT. I would like to hear a little of the history, so that people understand that we have been through this block and chop business, and anybody who thinks this is going to be just block and not chop simply doesn't understand what the history has been in the past.

Ms. BANE. Right, right. I assume you are referring, Mr. McDermott, to the block granting of the social services block grant and the community services block grant in the early eighties. There were virtually no requirements, including, unfortunately, no reporting requirements, so we have very little information on what actually happened as a result of those.

But it was certainly very clear to us in New York during the period of the eighties that we were spending a good deal more of our State money for those purposes, especially for the purposes that were pulled together under the social services block grant, having to do with day care and child welfare and so on; and that at least from that one State's point of view at that one time, it did seem like the Federal Government was pulling back pretty badly.

Mr. MCDERMOTT. Let me ask you another question, because it seems to me that one of the things that our discussion about various programs is that we act as though they are sort of sitting out there all alone by themselves, not connected to anything else on the horizon. But I really look at this as kind of like a spider web. If you touch it in one place, it moves everywhere.

There is a proposal on the Hill here to reduce or to kick people off AFDC and to do a number of things in that area. Are you willing to talk a little bit about what you think will happen to the child welfare caseloads if you knock all the kids off the AFDC rolls?

Ms. BANE. Well, we all hope that reform of the welfare system will be done in such a way that children will be protected, that there will be a focus on work and parental responsibility and that children will be able to remain with their families and remain in good situations. I think many of us worry that some of the proposals being talked about—and again, I know that the committee has not agreed on a proposal, but that some of the proposals being talked about would indeed deprive AFDC benefits to large numbers of children for pretty long periods of time. And I think we all worry that under those circumstances, there would be more children who come under the child welfare system and come into the custody of the State.

And I think that as we think about that kind of a situation, we really want to be careful because the child welfare system is already terribly strained. It is already struggling with the needs of vulnerable children and families. To soon have to deal with more children, because their families are poorer because their mom can't get a job, seems to us to be a terrible mistake.

Mr. MCDERMOTT. Would you tell me about the turnover rate of your caseworkers? I know this is hard maybe, to remember back, but what was your caseworker turnover rate at the lowest level; that is, the entryworkers who are dealing with welfare cases and with child welfare cases and child abuse and CPS, those various programs?

Ms. BANE. Oh, in general, it was very high. Child protective workers probably had the highest turnover rate; they probably turned over every 2 or 3 years. I think they may have the hardest job that we ask anybody to do in this country, and we pay them terribly and we blame them when anything goes wrong. So I could understand why.

It was a tragedy, though, because, you know, the most important part of this system is a concerned caseworker who is able to make good decisions for children, and I think the extent to which we can put some investment into training for caseworkers, into support for caseworkers, into making their lives easier, is really going to pay off.

Mr. MCDERMOTT. Are you talking about 2 to 3 years as an average, or are you talking, the longest anybody lasted at it?

Ms. BANE. I think it was probably an average. It varied from State to State. It depended on whether there were any alternative employment opportunities as well.

Mr. MCDERMOTT. My experience is that that is true. I think it needs to be emphasized that paperwork, it is easy to rail against paperwork, but when cases are turning over rapidly, from caseworker to caseworker to caseworker every 2 or 3 years, if there is not an adequately done record, there is no way anybody can deal with these.

I, in my professional life, dealt with these cases in court and reviewed records of kids who had been in foster care for 10 years. And it was very often almost impossible to put together what had actually happened to that kid because people had not recorded what the reasons were why he left one foster placement to go to another foster placement, how he failed, where he succeeded, and all those kinds of issues that are absolutely critical to making any kind of sensible judgment for a kid.

And I think that people need to understand, the paperwork isn't just something you say to people, well, sit over there and write a bunch of stuff down. It really is for the next person who is coming in in a couple of years, who has no idea where this kid came from and is usually handed it in a critical situation when the child's situation has all fallen to pieces. It comes back up on somebody's desk and they go to the file and it is 3 or 4 inches thick, and there is still stuff left out. I think that it is really important to say that.

I appreciate your testimony. Thank you. We will talk to you some more.

Chairman JOHNSON. Thank you, Mr. McDermott.

Mr. Portman.

Mr. PORTMAN. Thank you, Madam Chairwoman. I thank you for your testimony. This has been a very interesting discussion, wide ranging. I appreciate Mr. Levin's candid and forthright assessment of the Federalism issues here. I think that is exactly what is at stake, and I would like to pursue that a little further, and just make a couple of comments.

One, I think it needs to be underlined that part of what we are discussing as a Congress this year is the reality that being $4.7 trillion in debt and having a general consensus that we need to reduce our spending, I think on both sides of the aisle, and specifically facing a likely balanced budget amendment within 7 years, that there will naturally be cuts in all programs, all services on the Federal level, if we are to achieve those very significant cuts, and that the block grant program is in part a response to that.

We have been hearing from members of State legislatures, as Mr. McDermott was and many others on this panel, from Governors and so on, that they would prefer the block grant approach. Part of the reason they are saying that is, they want to keep current services and it is the Federal requirements and the paperwork and so on which takes an increasingly large part of the—of the dollar that they are able to provide for services. And what we are saying here in Congress and what they are saying to us is that there may be a better way to do this, a way to have current services maintained with the Federal budget imperative, which is to cut our spending here, and one way to do that might be to increase flexibility through block grants.

So that has a larger context that I think maybe hasn't been discussed adequately this morning.

I think Mr. Levin is right on target that this is really a much larger issue than just child welfare or just AFDC, and it goes to the role of the States and Federal Government. And maybe at some point we do have a shift back, in a sense reversing the trend of the last century of increasing Federal responsibility, back to more State responsibility.

In that context, I would ask you, we have learned about what you did between 1980 and 1985, but how long have you been involved in child welfare programs in one way or another, either as an academic or as a person involved directly with programs?

Ms. BANE. Oh, longer than I am willing to admit. I don't know, 15 years, 20 years.

Mr. PORTMAN. In those 15 years, you have then seen how the States handle child welfare caseload, foster children, adoptions, and so on; you have seen how the Federal Government has reacted; you followed the developments Mr. McDermott pointed out where we have gone to block grants and back from block grants.

Would you say, in your judgment, that the States are doing a better or a worse job in that decade or two, in terms of providing child welfare services?

Ms. BANE. I am not sure I can speak for all the States. I mean, my perception certainly is that New York is doing a better job now than it was 10 or 15 years ago in providing child welfare services. And it also appears as though the 1980 legislation was a prod, if you will, to the States to make some improvements in their child welfare system; and most especially, to focus more on achieving permanent outcomes for children. That was really the focus of the legislation and the issue that was very much before people.

And I think that we have seen since that time in virtually all the States an improvement in the system so that the States are indeed keeping track of the children in their system, that they are in fact doing some planning aimed at permanence and really trying to achieve that.

Mr. PORTMAN. Is it your view that if we were to change the requirements at the Federal level, vis-a-vis New York State, as an example which you referred to, that New York State would shift back to less permanent solutions? In other words, is it necessary to have the Federal gun, so to speak, at the head of the States, in order to keep them on what you and I think most child welfare experts would agree is a proper course?

Ms. BANE. I think it is very hard to make a prediction about that. My sense is that some States would and some States wouldn't, and that in many States—and I think it would be fair to say that this was true in New York at some points in its history, too—that the fact that there are Federal guidelines and that there is Federal money was an incentive for the State to keep moving in the right direction.

I think it is also fair to say, though, that there are many other States where it appears that it really was the existence of the Federal legislation and it really was the existence of the Federal push that led to some improvements in the system.

Mr. PORTMAN. Earlier you mentioned that we don't have all the answers here in Washington, and I think, given your oral statement, you have a proper attitude with regard to flexibility, that the States are important laboratories of experimentation and that maybe there is a certain advantage to giving States that flexibility beyond all the budget issues we discussed, which is to say that they have got some pilot programs and some ideas that we haven't thought of.

Wouldn't you see that as an advantage to a block grant type program?

Ms. BANE. Oh, absolutely, it seems to me that State flexibility and State creativity are very important; and States have most of the responsibility for the child welfare program even now. I think that we can assess how we deal with the States, I think we can assess our accountability mechanisms. I think that we need to make some dramatic improvements there because our accountability mechanisms need to be oriented to results and they need to be oriented toward genuinely improving performance. There is no question about that.

And as I say, I think the ability of the States to try some things out is really very important. I guess we are all trying to struggle with this question of the proper balance between State flexibility and national leadership. That is the crux of the question that we are going to be going back and forth on as we have this conversation.

Mr. PORTMAN. If I could close, Madam Chairwoman, with one specific question along those lines—and I realize that there are lots of different specific proposals we are going to be hearing about over the next several months, but one in particular would be the separate program for abandoned infants for adoption opportunities.

Does that make sense, to have a separate program for that, or wouldn't it make more sense to block grant that program and give it to the States specifically to give them the flexibility you are talking about?

Ms. BANE. Those are two programs for adoption opportunities and abandoned infants. I think the discretionary grants that have been given under that program have allowed some very interesting things to go on that we have learned from. I think that they have done some good services. I think that may be one you want to look at.

Mr. PORTMAN. Thank you, Madam Chairwoman.

Chairman JOHNSON. Thank you, Mr. Portman.

And thank you very much, Secretary Bane, for your comments.

The Ways and Means Committee has always operated through legislation that has been introduced, reviewed at hearings, and then the chairman submits a mark that reflects not only the legislation that has been introduced and the concerns that it has raised but the input of the hearings. We are not, we never have and we don't intend to legislate by press release. We are proceeding as we always have through the submission of substantive, thoughtful proposals.

Fundamentally, the proposals that we are considering are going in exactly the same direction that your department is considering going; that is, toward reevaluating and rebalancing the relationship between Federal direction and State authority, assuring that together we carry out our responsibilities to the children of America.

There is, however, a sense of urgency; there is no question about that. Whether you vote for the balanced budget amendment or whether you don't vote for the balanced budget amendment, no nation can continue to spend more than it collects decade after decade. So we are now going to take our responsibility seriously, to bring these things back into line. We have given ourselves a timeframe of 7 years, which is better than our normal 5-year view in this place.

And so there is a sense of urgency, and we are going to need your help and your sharp focus on the issue of, what programs can be appropriately brought together? How can they be governed in a way from Washington that we assure that children's interests will be addressed? How can we move the issue of accountability away from reports and toward the kind of data that we see not only in the private business sector but in the private human service sector doing a far better job of dealing with the issue of accountability and effectiveness than our old way of many, many levels of bureaucratic entanglement that in the end diverts us from the real issue?

So we share the goals that are really important to America's children. And I hope that you will work closely with us as we prepare materials for the committee, that then eventually we'll have concrete hearings on a concrete proposal. But the purpose of this Oversight hearing is to try to draw, as Oversight ought, from our experience, to try to chart a more enlightened path into the future. And I look forward to working with you as we try to chart that path.

And I appreciate the indulgence of the committee in allowing the Secretary to answer fully the members' questions. And I thank you very much.

Mr. MATSUI. Will the gentlelady yield?

Chairman JOHNSON. I will be happy to.

Mr. MATSUI. Are you saying that HHS has been in discussions with the Governors and with the appropriate Republican chairs on this issue?

Chairman JOHNSON. No, no, I am not saying that.

Mr. MATSUI. Well, how do we propose that they get input? Because you were suggesting that suggestions and input be part of this process. I am wondering how we are going to be able to provide that.

Chairman JOHNSON. I have raised the specific issue in my concluding comments about what is going to be the governance language of any children's services block grant, what would be the accountability mechanism; and I raised that through my questions, and I open that to the Secretary and the administration for their full input on those issues.

Mr. MATSUI. And I understand that, and that is great, and it is in the hearing record. But then how does that get into the discussions between Governor Engler, Governor Thompson and those who are negotiating on behalf of your side? Because that is where I think the issue is. And frankly, we don't know yet whether the Contract With America or the block grant proposal that we have been reading about in the newspaper or one of a number of others is going to be on the table.

And as I think Mr. McDermott mentioned, we are going to be marking this up, I would presume, in another 2 or 3 weeks, both in the subcommittee and the full committee. And I mean, I have to say that I appreciated Assistant Secretary Bane's testimony, but she really couldn't respond to a specific proposal. And then when we raised a specific proposal on that side of the aisle, we hear that it is irrelevant, that the chart is irrelevant because that is not what the Republican proposal is.

Chairman JOHNSON. She could respond with a specific proposal that is the subject of this hearing, and that is the 427 reviews. That is the subject of this hearing, and that is what people are here to respond to, and that is what I would expect to get them to respond to.

Mr. MATSUI. If that is what we were supposed to do, that is fine, but then you raised——

Chairman JOHNSON. That is the topic of the hearing.

Mr. MATSUI. You raised the issue of the block grants, though. So at least in your opening statement, we were told block grants were going to be an integral part of this discussion.

Chairman JOHNSON. There is already a proposal on the table out there, that has been introduced, that has a lot of block granting in it; and that is being heard, as we speak, by the Human Resources Subcommittee. We are looking at a special aspect of that. It is my hope that, through this hearing, we will have very concrete, clear input into the form that the chairman's mark will take.

Now, I have certainly spent many years trying to influence chairman's marks before they came out and trying to influence them after they came out. And you know as well as I know that no matter who is in charge, there are legislative initiatives submitted, there is a hearing process, and we all try to influence the chairman's mark.

Mr. MATSUI. I know. Let me say you will have much more influence than I will have.

Chairman JOHNSON. I hope that through good oversight work that we as the Oversight Subcommittee will be able to work with the administration in an honest enough and effective enough way that we will have some significant input into that. It will certainly enable us at full committee, and on both sides of the aisle, to do that work.

Mr. MATSUI. Madam Chairman, I think this hearing is great and I really commend you for holding it; and I think it is necessary. The only issue I raise is the fact that I hope that—and it is not your decision, I know, or partly your decision, but I hope that we get to see what the final proposal will be soon, so we can give the administration, us and everyone else, an opportunity to react. Because at this time we really don't know and we would like to find out.

Because we are talking about revolutionary changes.

Chairman JOHNSON. I hope that you will get to see them more in greater advance than we used to get to see the chairman's marks, either subcommittee or full committee. And we have shown in a number of ways, both by assuring minority input into the setting of this agenda, as has taken place on some other subcommittees, that we are going to try to proceed in a little different fashion than we have in the past.

But I certainly can make no guarantees about what will happen in the future, because we are in a terribly constrained timeframe, because we have combined not only some reform initiatives, but we have combined that reform initiative agenda with, now, also the balanced budget agenda, which creates a slightly different situation than we had anticipated when the Contract was written.

So here we are. It is work we must do. I hope we will do it together, both with your department and in a bipartisan way. There will be limits to that bipartisanness, and of course I understand and accept that, but we will keep you as well informed as we possibly can.

Thank you, Madam Secretary.

The next panel would come forward, please. And now, this panel, we will enforce the 5-minute rule on the speakers and also on the committee members, so that we will get through both panels in a fairly timely fashion.

I do very much appreciate your input. I know from the staff's reports that they have talked with you extensively, and we are going to hear some excellent input on both the benefits and possibilities of greater flexibility and also the difficulties and shoals in those waters.

We will start, please, with Patricia Balasco-Barr, director of the Division of Youth and Family Services, the Department of Human Services, from the State of New Jersey. Welcome, Ms. Balasco-Barr.

STATEMENT OF PATRICIA BALASCO-BARR, DIRECTOR, DIVISION OF YOUTH AND FAMILY SERVICES, NEW JERSEY DEPARTMENT OF HUMAN SERVICES

Ms. BALASCO-BARR. Good morning. I am Pat Balasco-Barr, director of the New Jersey Division of Youth and Family Services, an agency within the Department of Human Services in New Jersey.

I am here on behalf of Human Services Commissioner William Waldman, who is with Governor Christine Todd Whitman this morning, because today is our State budget message.

Chairman Johnson and members of the Committee on Ways and Means, Subcommittee on Oversight, I want to thank you for the opportunity to provide testimony today regarding the current structure of funding available through title IV–B and IV–E of the foster care and adoption assistance.

The Division of Youth and Family Services in New Jersey, commonly called DYFS, is the single organizational unit responsible for IV–B and IV–E; and we take very seriously the mandate of Public Law 96–272 to make reasonable efforts to prevent out-of-home placement. Our child protective and child welfare practices have emphasized meeting the needs of children and their families in their own homes, and when that is not possible, in the most homelike setting and in the place closest to the youngster's home community.

DYFS operates 40 field offices, which serve a caseload of almost 50,000 children and their families on any given day. New Jersey is very proud of the fact that the overwhelming majority of these children, more than 83 percent, reside in their own homes. Only 7,900 children are served in out-of-home settings. The majority of these children, some 5,900, are in foster family care. The remaining children are in group home facilities, residential facilities, or small, community-based group homes. Sixty percent of the children in terms of eligibility for Federal funding—approximately 60 percent of the total child placement population in our State are eligible under IV–E.

New Jersey's use of out-of-home placement has not only remained stable over the past decade, it actually declined some 8 percent between 1989 and 1994. Over the same period of time, the reliance on out-of-home placement has risen dramatically in most other States.

New Jersey participated in the pilot program of the existing section 427 monitoring system in 1981, the initial section 427 compliance review in 1982, and three subsequent triennial reviews. I am pleased to say we passed each of those program reviews. Nevertheless, our experience has been that the task of documenting continuing compliance with the section 427 protections, much more than simply conducting our practice in the way that satisfies these norms, has been cumbersome and time-consuming for casework staff.

Specifically, we believe that the Federal approach to measuring compliance with the principles of Public Law 96–272, has inadvertently evolved to the point that it emphasizes the letter rather than the spirit of the law. In general, section 427 reviews have been more concerned with the tracking of precisely worded statements or process, rather than evidence of the actions themselves. Although New Jersey has passed these compliance reviews, we have come to conclude that this orientation has distorted the original intent of the law.

New Jersey has a case review system specifically designed to meet the requirements of section 427. In fact, New Jersey enacted a child placement review act in 1978, 2 years before section 427 requirements were imposed. The State law essentially requires parents, caseworkers, children, foster parents, guardians ad libitum to participate in the review process. The 427 review is duplicated by the child placement review committee, which works out of the judiciary part of government in New Jersey. We also then have the judicial review, when a child is under the supervision of the court.

So, in essence, there are three kinds of reviews that are monitoring New Jersey's compliance with Public Law 96–272: Compliance with the requirements of IV–E and IV–B eligibility, and the movement of children toward permanency.

One of the things that came to our attention in preparing for this hearing was so many of our children in New Jersey return home prior to the requirement of a section 427 review. And we take great pride in the fact that that family preservation initiative is working much, much better than our 427 review would ever tell anybody.

The budget resources required for 427 review is about $2.5 million. The workload management studies that a minimum of 14 percent of a caseworker's direct service time is expended for children in out-of-home placement is spent in documentation of 427 requirements. In addition, compliance with these standards involves the time of supervisory, management and support staff to fully integrate these section 427 driven actions.

DYFS has a corps of 14 regionally based third-party section 427 reviewers who convene and conduct the placement reviews. We have no doubt that reviews have benefited children in out-of-home placement, but we think that the system—does that mean I stop?

Chairman JOHNSON. Well, you are close to the end because you are summarizing now.

Ms. BALASCO-BARR. The purpose of the law is being met in New Jersey, and the purpose of the law toward good child welfare practice is being met. But when you look at the quality and the numbers of reviews that we are doing in New Jersey, you begin to wonder, how many times does it take you to figure out whether you are on a good case practice basis with each child? Would there be deficiency—would there be efficiencies if we block granted child welfare programs; and would foster children be better served if we plowed overhead into additional resources?

I think there is a misconception when we talk about administrative costs, that you think of whole lots of folks that look like me sitting around and that is how the salary is paid. But administrative costs has to do with cars, has to do with desks and computers and training for staff. It has to do with the other things that support a caseworker's ability to do the work, what we call "good child welfare practice."

I appreciate the opportunity to present the testimony to you today and I am available for questions after the rest of our panelists talk.

Chairman JOHNSON. Thank you very much, Ms. Barr.

[The prepared statement follows:]

TESTIMONY OF
DIRECTOR PATRICIA BALASCO-BARR
DIVISION OF YOUTH AND FAMILY SERVICES
NEW JERSEY DEPARTMENT OF HUMAN SERVICES
BEFORE THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT

JANUARY 23, 1995

Good morning. I am Pat Balasco-Barr, Director of the New Jersey Division of Youth and Family Services, the child protective and child welfare service agency within the Department of Human Services. I am here today on behalf Human Services Commissioner William Waldman who was not able to appear before the Subcommittee today. Commissioner Waldman is joining New Jersey Governor Christine Todd Whitman as she presents her State Budget Message for fiscal year 1996.

Chairman Johnson and members of the Committee on Ways and Means Subcommittee on Oversight, I want to thank you for the opportunity to provide testimony today regarding the current structure of funding available through the Title IV-B of the Social Security Act for Child Welfare Services and Title IV-E of the Act for Foster Care and Adoption Assistance.

The Division of Youth and Family Services, known in our State as DYFS, is the State's Title IV-B and Title IV-E single organizational unit. We, in New Jersey, take seriously the mandate of P.L. 96-272 to make reasonable efforts to prevent out-of-home placement. Our child protective and child welfare practices have emphasized meeting the needs of children and their families in their own homes, or when that is not possible, in the most home-like setting appropriate to the child's needs in or near the youngster's home community.

A brief overview of the Division's operations and caseload statistics illustrates that this is not simply a statement of philosophy -- rather, it is a matter of practice. DYFS operates 40 field offices which serve a caseload of almost 50,000 children and their families on any given day. New Jersey is very proud of the fact that the overwhelming majority of these children -- more than 83 percent -- reside in their own homes. On any given day, only 7,900 children are served in out-of-home settings. The majority of these children, some 5,900, are in foster family care. The remaining 2,000 children are receiving treatment services in group care facilities, and to the maximum extent possible, small scale, community based group homes are used in lieu of large scale residential facilities. In terms of eligibility for federal funding, approximately 60 percent of the total child placement population in our State are eligible under Title IV-E.

New Jersey's use of out-of-home placement has not only remained stable over the past decade, it actually declined some 8 percent between 1989 and 1994. Over this same period of time, the reliance on out-of-home placement has risen dramatically in most other states.

New Jersey participated in the pilot-test of the existing Section 427 program monitoring system in 1981, the initial Section 427 compliance review in 1982 and three subsequent triennial reviews. I am pleased to say that we passed each one of these program reviews. Nevertheless, our experience has been that the task of documenting continuing compliance with the Section 427 protections -- much more than simply conducting our practice in a way that satisfies these norms -- has been cumbersome and time-consuming for case work staff. Specifically, we believe that the federal approach to measuring compliance with the principles of P.L. 96-272 has inadvertently evolved to the point that it emphasizes the letter rather than the spirit of the law. In general, Section 427 reviews have been more concerned with the tracking of precisely worded statements or process, rather than evidence of the actions themselves. Although New Jersey has passed these compliance reviews, we have come to conclude that this orientation has distorted the original intent of the law.

I would like now to address the specific questions that I believe are of concern to the Sub-Committee.

HOW DOES NEW JERSEY MEET THE SECTION 427 PROTECTIONS?

New Jersey has a case review system specifically designed to meet the requirements of Section 427. In fact, New Jersey enacted the Child Placement Review Act in 1978, two years before the Section 427 requirements were imposed. State law requires the early and periodic review of children placed into out-of-home settings by the Division of Youth and Family Services The system established by the law is a combination of citizen review boards and a judicial review of the circumstances of a child's placement, including: reasons for placement, current conditions of the placement, the appropriateness and progress of the plan for the child. Parents are invited to participate. Since the 12 month periodicity of the State Child Placement Review system was less frequent than the six month frequency subsequently required by federal law, the Division provided for alternating interim 6 month reviews by conducting independent, third-party placement conferences -- known as "administrative reviews" under Section 427. These conferences meet the standards of the reviews required by Section 427 in that they are conducted by staff not involved in the decision-making or service delivery for the case, parents are invited to attend, formats for documenting and guiding the review are completed by those Division staff attending which record all the assurances required.

The driving purpose of the federal law mandating a review system was noble. The reviews were intended to assure -- through an independent process of monitoring and problem-solving -- that in each case reasonable efforts have been made to prevent placement, that the placement is appropriate, and that reasonable efforts are being made to ensure progress in reuniting the child with his family or in moving towards an alternative permanent living arrangement. What we have found, however, is that an inordinate amount of effort is needed not to ensure compliance with the Section 427 protections but, rather, to ensure that documentation of each of the Section 427 protections is available in a formula statement that precisely mirrors the provision to which it applies. For example, we have found over the course of these triennial reviews that the requirement that efforts be made to place children in close proximity to their homes had to be demonstrated through a discussion of alternative placement sites -- rather than simple evidence that the foster home selected was within the same community. In other words, actual proximity appeared to matter less than a statement in a particular form discussing the efforts to identify other possible placements that did not meet the proximity protection. In some cases, these statements were required even though it was manifestly clear that the State had met the proximity requirement.

WHAT KIND OF BUDGET RESOURCES HAVE BEEN ABSORBED TO COMPLY WITH THE SECTION 427 PROTECTIONS

To meet the principles embodied in the law, New Jersey has made a considerable investment of resources from not only the Division of Youth and Family Services, but also from the judiciary. First, the Division's front-line field staff must conduct their practice in a way that satisfies the federal requirement to make reasonable efforts to prevent placement and that ensures case plans for children and families address the relevant Section 427 protections. In addition, field staff must participate in the third party review of placement every six months, alternating as an in-house placement conference or a review before a citizen-based Child Placement Review Board. We estimate from workload management studies that a minimum of 14 percent of a case worker's direct service time expended for children in out-of-home cases is spent in the documentation of the Section 427 requirements, including writing the case plan and participating in the formal third-party reviews. In addition, compliance with these standards involves the time of supervisory, management and support staff to fully integrate these Section 427-driven actions into the agency's practice and record-keeping.

DYFS also maintains a corps of 14 regionally-based third-party "Section 427" reviewers who convene and conduct placement conferences that are attended by the parents, the supervising case worker, his or her supervisor, the foster parents, and the child, if appropriate. The salary and support costs for these 14 reviewers is approximately $1 million.

In addition, the State's network of Child Placement Review Boards, which serve as arms of the Family Division of the New Jersey Superior Court, operate in all 21 counties. Although staffed by volunteers, the cost to the State Judiciary to support local board operations -- as well as the cost of bench time needed to review and make a judicial determination of each board recommendation -- is considerable.

Clearly, these expenditures exceed the approximately $2.7 million in Title IV-B incentive payments that New Jersey receives in return for complying with the Section 427 requirements. But, the question of whether these efforts are worthwhile is more complex than whether they are simply cost neutral. We believe that the basic intent of the Section 427 protections is sound. New Jersey would pursue them even if they were not mandated by federal law. However, we also believe that the monitoring of Section 427 compliance has progressed well beyond encouraging affirmative outcomes for children in placement. Rather, it has become an end in itself -- instead of focusing on the positive outcomes that we, as child welfare practitioners, owe to the children in our care.

HAVE THE REVIEWS BENEFITTED CHILDREN IN FOSTER CARE?

We have no doubt that reviews have benefited children in out-of-home placement, but we also think that the system as it has developed fails to implement the intent of the law. The prevention of placement -- to allow children to continue living in their own homes -- is the purpose of the law. However, the focus of Section 427 compliance reviews has become the microscopic inspection of statements about the procedures that occurred after a child entered placement -- rather than a common sense examination of the outcomes actually achieved. Although a review of the circumstances of a child's placement is essential if we are to ensure movement toward permanency, the focus of these reviews should be redirected toward pre-placement events (i.e., prevention of placement) as well as concrete indicators of case progress or movement.

To illustrate this view, we only need to point out that gains on behalf of children in placement -- whether measured by the rate of placement utilization, time in placement, or qualitative measures of placement appropriateness -- have continued in New Jersey well past the point that one would expect through Section 427 protections alone. We believe that our investments in family preservation and family supportive services have yielded substantial additional benefits, far beyond those of the Section 427 protections alone, for the children in our care. Ironically, under the existing 427 monitoring mechanism, a state such as New Jersey that is highly successful at preventing placements and moving children home faster -- concrete outcomes for children -- could nevertheless fail a Section 427 program audit on procedural grounds. In fact, the case sampling methodology employed by the Administration for Children and Families in conducting compliance audits systematically exclude any placement that is of six months duration or less -- ignoring significant numbers of children who have been quickly and successfully reunited with their families.

WOULD THERE BE EFFICIENCIES IF WE BLOCK GRANTED CHILD WELFARE PROGRAMS AND WOULD FOSTER CHILDREN BE BETTER SERVED IF WE PLOWED OVERHEAD INTO ADDITIONAL RESOURCES?

New Jersey initially developed and has since enhanced, an extensive/complex procedural infrastructure to comply with the essential protections currently required under Section 427. The principles of comprehensive case planning, aggressive service delivery, periodic independent reviews and judicial determinations of the continuing need for placement are fundamental elements of good casework practice. Therefore, if child welfare programs were block granted, we would most likely choose to maintain all or most of the current requirements. Maintaining even the basics of the current system would not allow for much direct casework overhead to be freed to reinvest into additional resources.

There could be significant savings, however, to the extent that states were no longer required to conduct continuing periodic reviews of certain categories of cases -- such as permanent placements with relatives or long-term foster care -- that had, in effect, achieved permanent outcomes. Nevertheless, states should have the opportunity to include the principles of the law into their practice and monitor their implementation in a more flexible way. The states should also be encouraged to pursue the state of the art improvements in child welfare service philosophy and practice as they evolve and not be tied to the limits of what was once the best thinking to meet the needs of the time.

Towards that end, we would welcome the flexibility to reinvent the Section 427-type protections that would come with a block granting of Title IV-B. We believe, however, that the potential for achieving economies under a block grant while maintaining the current level of child welfare services would be minimal at best.

With respect to the block granting of Title IV-E, we believe that a fundamental issue has to deal with the widely divergent levels of claims being made by the various states at the present time. Any block grant conversion that limited each state to its current level of Title IV-E claiming would be unfair. As an alternative, we would suggest that a funding formula be used which would base each state's share of national funding appropriation on some statistical measure or demographic proxy of each state's actual need. Of course, this approach would also need to reflect an adequate total appropriation for this purpose. Finally, in keeping with my next point, we also believe that some additional incentive payments should be considered for states that exceed certain normative levels of outcome for children at risk of or in foster care.

WHAT MINIMAL FEDERAL REQUIREMENTS WOULD NEED TO BE RETAINED?

It is appropriate for the federal government to provide the states with guidance, in the form of general requirements, for the expenditure of the child welfare dollars that it provides. More specifically, we do not take issue with the basic requirements of Section 427 for placement prevention, for the selection of the placement that is most appropriate to the child's needs (including close proximity to the child's family and community, when proximity is relevant), for prompt initial review and subsequent periodic reviews of the placement, for judicial oversight, and for efforts to achieve permanency. We have no quarrel with the intent of Section 427 at all. We would, however, like to see the federal government adopt a far more flexible and common sense approach to the determination of compliance, and most importantly, one that emphasizes actual circumstances, events, and outcomes rather than process statements and descriptions.

In a practical way, this would amount to requiring a state to show evidence that the basic Section 427 protections are in place -- through the current "administrative review" that each state must first pass before it proceeds to a case record based field review of compliance. Overall compliance should then be based upon the state's documentation of positive outcomes in terms of placement prevention, length of stay in placement and other measures of movement towards permanency. We believe, after 14 years of experience with the provisions of P.L. 96-272, that simply having the Section 427 procedural safeguards in place in no longer enough. States should be held accountable for success in preventing placements, reunifying families and moving children quickly towards permanency. With the impending requirements of the nationwide Adoption and Foster Care and Analysis Reporting System (AFCARS), the states will be in a position to report outcome/case flow data that can be used towards this end.

In closing, Madam Chairwoman, I would like to thank the Sub-Committee for allowing me the opportunity to discuss New Jersey's experience with the current Section 427 requirements as well as our view of the potential impact of block granting the Title IV-B and Title IV-E programs. We, at the New Jersey Division of Youth and Family Services, join with you in seeking to strengthen our ability to prevent placement, preserve families and to quickly achieve permanent outcomes for children in foster care. Thank you.

Chairman JOHNSON. Mr. Horn, it is a pleasure to welcome you back to the committee.

STATEMENT OF WADE F. HORN, PH.D., DIRECTOR, NATIONAL FATHERHOOD INITIATIVE, AND FORMER COMMISSIONER, ADMINISTRATION FOR CHILDREN, YOUTH AND FAMILIES, U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Mr. HORN. Thank you. It is a pleasure to be back after a 2-year hiatus from appearing before this committee.

My name is Wade Horn, and I am the director of the National Fatherhood Initiative, an organization whose mission is to restore responsible fatherhood in America. I also am the former U.S. Commissioner for the Administration for Children, Youth and Families in the Department of Health and Human Services, and served as a presidential appointee on the National Commission for Children. I have submitted a more lengthy statement for the record, and I would just like to summarize my major points.

Child welfare today is not just in crisis, it is at a crossroad. We have to determine whether we want to continue on down the road we are on, toward more micromanagement and regulation of the child welfare system, or whether we want to change directions and provide States and local agencies with greater flexibility to do the job that they want to do. I am here to testify that I think we need to change direction.

There are two major problems with the child welfare system today. The first is that there are far too many funding streams, and they are far too categorical in nature. By my count, there are at least 17 different funding authorities within the Children's Bureau. There are an additional four within the National Center for Child Abuse and Neglect. There are several others scattered throughout the Administration for Children and Families. There are three in the Department of Justice. And I have just learned yesterday that there is one under the jurisdiction of the Banking Committee, a $76 million family unification program that quite frankly I didn't know existed.

Why is it that States should have to negotiate this labyrinth of Federal programs in order to set up one single, comprehensive, seamless system of services to take care of the needs of children? The current system is, quite frankly, lunacy. It doesn't make a lot of sense.

The second problem is that I don't think we can find anybody that says that section 427 reviews are doing what they were expected to do or intended to do. Despite wonderful intentions, what we have is a system where you can pass a section 427 review, and yet be brought to court and found wanting in terms of protecting the welfare of children. I think there are two reasons for this.

First of all, the protections as mandated within the law, are in some cases far too ambiguous and difficult to define so States have to kind of guess at what it is the Feds mean and how it is they are to document that, in fact, a particular protection was met.

Second, as a former homemaker myself in the Department of Child and Family Services in the State of Illinois, way back in 1977, I know that it is far easier to have an understanding about whether a particular case is in fact going well if you are part of that community. It is simply too difficult for a Federal bureaucrat, either here in Washington or in a regional office, to travel 200 or 300 miles, sometimes many thousands of miles, to get an understanding about what is going on with a particular child by reading the case record.

How can you tell whether a particular service was appropriate if you don't know the full range of services that are available in that community? It just doesn't make sense to ask the Federal Government, with its limited administrative resources, to take on that kind of responsibility and oversight.

I have two major recommendations for the subcommittee.

The first is to reduce the categorical nature and number of funding streams in child welfare. I recommend that you collapse all of the spending within the Children's Bureau that is dedicated toward child welfare, except for foster care maintenance payments and adoption assistance maintenance payments, along with the four programs in the National Center for Child Abuse and Neglect, those child welfare programs within the Justice Department and the one child welfare program under the jurisdiction of the Banking Committee, into one large block grant to allow States to implement a comprehensive, seamless system of services to protect children.

My second recommendation is that we devolve responsibility for oversight at the case level to the States. It seems to me there are some possibilities already being explored by the States to do precisely this. One particularly promising approach is the use of so-called citizen review boards.

There is a recent study of the use of citizen review boards in Douglas County, Kans., that found that their use resulted in significant reductions in judicial and administrative delays, speedier implementation of permanency plans, and most importantly, a significant reduction in time spent in out-of-home placement.

An oversight system that is much more tied to the local community will have a better understanding of the resources and needs of that community, and can therefore respond in a much more aggressive fashion to ensure that children are protected, than you can if you come from Washington, D.C., for a 1- or 2-week visit.

I am not suggesting that the Federal Government has no role to play in child welfare. In fact, I do believe that the child welfare amendments of 1980 were instrumental in helping to improve the child welfare system. The problem is that since that time we have gone down the road toward a much more fragmented and much more overregulated system. What we need to do is reverse course and get out of the business of micromanaging States—micromanaging not only their practice but their budgets—and the best way to do that is through a block grant approach.

[The prepared statement follows:]

Statement by Wade F. Horn, Ph.D.
January 23, 1995

My name is Wade F. Horn, Ph.D. I am the Director of the National Fatherhood Initiative, an organization whose mission is to restore responsible fatherhood as a national priority. Formerly, I served as Commissioner for Children, Youth and Families within the U.S. Department of Health and Human Services, and was a presidential appointee to the National Commission on Children.

The child welfare system is in crisis. Data reported through the Voluntary Cooperative Information System (VCIS) indicate that more than 445,000 children age 0-18 were in foster care at the end of FY 1993, a 65% increase since 1983. The cost of foster care and adoption assistance under Title IV-E of the Social Security Act now exceeds $3 billion, ***nearly ten times*** the amount expended in FY 1981. We are spending more and more money on child welfare, and getting less and less in return. Indeed, despite ever increasing money spent on child welfare, statistics from the National Center for Child Abuse and Neglect indicate that in 1991 there were a total of 992,600 substantiated cases of abuse or neglect, an all time high.

Today is not the first time that a crisis in the child welfare system has made reform necessary. In the 1970's, the system was overburdened with an estimated 500,000 children in foster care. At that time, few states had adequate systems in place for ensuring quick resolution of foster care episodes, through either reunification or placement for adoption. Some states and local agencies could not even readily determine the location of a child once that child was placed in foster care. The result was hundreds of thousands of children in "foster care drift," bouncing from one foster care home to another with no agreed upon long term plan or strategy for resolving the concerns facing children in out-of-home care.

This dire situation changed dramatically with the implementation of the Child Welfare Amendments of 1980 (PL 96-272). This law required states to implement a number of reforms, including a requirement to conduct an inventory of all children in foster care, the implementation of a statewide tracking and information system, and the development of a case review system with an emphasis on permanency placement. The Adoption Assistance and Child Welfare Act of 1980 also created title IV-E, thereby linking child welfare services available through title IV-B with the AFDC foster care program.

States were required by PL 96-272 to self-certify that certain administrative reforms had taken place, and then submit to periodic reviews by the federal government to ensure that these reforms, as well as additional protections specified in the law, were in place for children in out-of-home care. The incentive for states to comply with the law was the inclusion of additional Title IV-B payments if these reforms were implemented and operating to the satisfaction of the Secretary of the U.S. Department of Health and Human Services. The provision in PL 96-272 for on-going system oversight came to be known as Section 427 reviews.

The short-term results of the reforms embodied in PL 96-272 were impressive. The length of time children spent in foster care was sharply reduced and the total number of children in out-of-home care plummeted from over 500,000 in 1977 to approximately 270,000 in 1983. Since that time, however, the number of children in foster care has been increasing, and spending on child welfare has exploded. What happened?

During the 1980's, two crises greatly challenged the capacity of the child welfare system to protect children. First, beginning in the mid-1980's, the crack cocaine epidemic dramatically changed the type of client being served by the child welfare system. Whereas the typical foster care placement in the 1970's and early 1980's involved neglect or highly episodic, and stress related, abuse, the new crack cocaine cases frequently involved much more severe and chronic abuse resulting in longer and repeat stays in foster care. Second, the 1980's saw an acceleration of the trend toward fatherless households. Given evidence that abuse is up to

forty times more likely to occur when the biological father is not living in the home[1], the trend toward increasing father absence greatly increased the number of children interacting with the child welfare system.

The federal government should have been in the forefront encouraging states to respond innovatively to these new challenges. Instead, the rigidity of PL 96-272 necessitated that states spend valuable resources and time trying to negotiate cumbersome rules and regulations in order to maximize federal reimbursement under the Title IV-E administrative costs program, and to submit to burdensome paper reviews required under Section 427. In addition, federal attempts to reform the system have mostly gone in the wrong direction. Instead of increasing flexibility and encouraging experimentation, recent reforms have actually ***increased*** the rigidity and categorical nature of federal funding streams.

A case in point is the relatively recent passage of legislation to provide funds for family preservation services. Although some advocates of family preservation services claim that out-of-home placement is prevented for as many as 90% of children served, the few experimental evaluations of family preservation services to date have not shown substantially lower rates of placement in foster care 4-6 months after the termination of family preservation services. In addition, according to Toshio Tatara of the American Public Welfare Association, the dramatic increase in children in foster care placements is not due to an increase in the rate at which children are entering foster care, but rather to a significant decline in the rate at which children are ***exiting*** foster care[2]. Despite the absence of empirical evidence attesting to its effectiveness, advocates for family preservation services were successful in persuading Congress to legislate a new funding stream which can be utilized ***only*** for family preservation and support services. Consequently, whether or not such services are effective or best meet the needs of a particular community, states are now required to use a substantial portion of federal funds to provide family preservation services.

In addition to the inflexibility and categorical nature of federal funding streams, the legislatively imposed requirements of Section 427 may have also been a hinderance to reform for at least two reasons.

First, the protections mandated in PL 96-272 are highly subjective and difficult to operationalize. For example, one of the case plan requirements is that a child be placed "in close proximity to the parents' home." What does close proximity mean? Does it mean the same thing in New York City as in Utah? What if it was not appropriate, in a particular case, to place a child in close proximity to his or her parents. What should one do then? Lacking clear definitions and unambiguous requirements, states are often forced to "guess" at the documentation required to pass a Section 427 reviews.

Second, many of the protections under Section 427 are highly dependent upon an intimate understanding of the individual case. How would a bureaucrat from Washington, D.C., truly be able to have an opinion as to the "appropriateness of services being provided" to a particular family in rural Kansas or urban Hartford? A much more rational and defensible system of oversight would be locally-based, for a local reviewer is in a far better position to understand local conditions and circumstances than a one or two week visitor from Washington, D.C., or from a regional office often hundreds of miles away. Lacking this intimate knowledge of local conditions and circumstances, the Section 427 reviews have become paper exercises, unable to address the complexities and nuances of the individual case.

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[1] Daly, M. and Wilson, M. (1985). Child Abuse and Other Risks of Not Living With Both Parents, *Ethology and Sociobiology*, 6, 197-209.

[2] Tatara, T. U.S. Child Care Flow Data For FY 92 and Current Trends in the State Child Substitute Care Populations, *VCIS Research Notes*, no. 9, August 1993.

What is needed to improve the child welfare system is greater state flexibility, not more specialized funding streams. The current system is simply too categorical, burdensome, and prescriptive on State agencies, resulting in much time and resources being diverted to satisfying federal paper requirements and away from serving the needs of children.

Specifically, I recommend that all child welfare discretionary and state formula grant programs, including those currently housed within the National Center for Child Abuse and Neglect, be combined with monies available under the Title IV-E Administrative Costs program, into one large state formula block grant program. States and localities could then use these funds to build a truly seamless system of comprehensive supports for families without having to satisfy the idiosyncratic and sometimes conflicting requirements of dozens of federal programs. The role of the Federal government would be to foster experimentation in the delivery of innovative services, collect national data, and provide technical assistance in evaluating the impact of innovative services.

I further recommend that oversight of the child welfare system -- excluding fiscal accounting and oversight of Title IV-E maintenance payments -- be devolved to the States. This would mean a transfer of responsibility from the federal government to the States, with appropriate assurances that such oversight is independent of the child welfare agency administering the program, for ensuring a well-functioning, comprehensive child welfare system.

One possibility for ensuring effective state and local oversight of the child welfare system is to make greater use of citizen foster care review boards. According to the National Association of Foster Care Reviewers, citizen review boards are generally created by state statute, staffed by volunteers, and required to make case plan recommendations and maintain ongoing oversight of case planning for children and families in the public child protection system. Because the reviewer is a volunteer with no vested interest in the child welfare system, he or she can instead concentrate on the welfare of children. A recent study in Douglas County, Kansas, demonstrated that the use of citizen foster care reviewers resulted in significant reductions in judicial and administrative delays, speedier implementation of permanency plans, and, most dramatically, a significant reduction in time spent in out-of-home placement[1].

I am not suggesting that the federal government has no role to play in child welfare. Indeed, it was largely due to federal efforts that major positive reforms were instituted in the early 1980's. However, emboldened by initial success, the federal government apparently came to believe that it was the site of ***all*** wisdom, and over the past decade has imposed ever increasing and unnecessary burdens on state agencies.

It is time for the federal government to get out of the business of micromanaging state child welfare budgets and services. The most effective way of accomplishing this is through the use of state block grants. Then let us see whether children are better off living with the decisions of local communities, or with those made by federal bureaucrats here in Washington, D.C.

Thank you.

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[1] Study by Mary Ann Jennings, MSW, and Thomas P. McDonald, Ph.D., of the University of Kansas School of Social Welfare, as cited in *The Review*, volume 8, no. 2, summer 1994.

Chairman JOHNSON. Thank you very much, Mr. Horn.
Mr. Digre. Sorry, Digre.

STATEMENT OF PETER DIGRE, DIRECTOR, LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES, LOS ANGELES, CALIF.

Mr. DIGRE. Chairperson Johnson, members of the committee, thank you very much for the opportunity to be here today. My name is Peter Digre, and I am the director of the Los Angeles County Department of Children and Family Services, an agency which during 1994 responded to more than 165,000 reports of abuse and neglect. Today and every day, I am personally responsible for the care and nurturance and protection of 58,000 children.

Virtually every day, in the media, we hear about children who have been horribly abused. Usually this abuse is at the hands of parents, sometimes it is at the hands of temporary caretakers. Tragically, as we talked about earlier, there are times at which the child welfare system itself fails to live up to the minimum standards required to ensure the safety of children.

All of us agonize for these children, and overwhelmingly, the American people cry out that the safety and nurturance of these children must be the first priority for all of us.

I am deeply concerned that the combined potential of block grants for both welfare reform and for child welfare will have a severely negative impact on children in the child welfare system, for example, if procedures are implemented either federally or at the State level that remove large numbers of families from assistance in the juvenile court statutes throughout the country.

The definition of neglect includes food, clothing, shelter and medical care. Therefore, many of the children removed from assistance would flood into the child welfare system due to the inability of their parents to provide for the basic essentials of life. Our experience with the recession and the California 1992 AFDC cuts indicates that the numbers would be at least in the thousands and conceivably in the tens of thousands in Los Angeles County alone. In short, I truly believe that the Nation's foster care system may well grow geometrically.

This chart that I have attached for you documents the very intimate relationship between the economic well-being of families and children entering the child welfare system. Proposals—and I was very relieved to hear the Chairperson's comment—which would block grant child welfare entitlement programs would put the child welfare situation in the state of being confronted with an open-ended juvenile court mandate which could place countless numbers of new children into foster care. And if there is only a capped block grant to pay for their care, without hyperbole, we can conclude there would of necessity be a drastic decline in the quality of the care and the safety of the children in that system, as capped resources provide less and less adequate care for growing numbers of children.

Second, the issue of the safety of children also demands national standards for child safety. Public Law 96–272 embodied many years of collected wisdom regarding minimal standards. The 427 protections, to my mind, speak to very simple and very basic things: Having case plans and goals, having cases reviewed by judges and case review boards periodically, and basic protections of parents' rights, like having your child placed close to home so you can be reunified with them.

Most importantly, what these standards have done is created a common vision and a common language which consistently focuses attention on the important outcomes for children, such as safety and all children's needs for permanent homes. As such, I truly believe that the essence of these goals, that the spirit of these goals, has extraordinary value.

I would like to ask the committee to enhance the 427 protections by including requirements that are universally vital to maximize the safety of children. Just a few examples: Children are injured in care and with their own parents if they are not visited; clearly, minimal standards of visitation should be included. Children can be left with child molesters if there are no criminal checks or child abuse background checks. Youth being removed from foster care need training to enter adulthood, or else they become homeless and they enter deprived.

I would like to suggest a number of ways in which flexibility could also be achieved. No. 1, there are numerous small categorical programs which could simply be rolled up and included in IV–B.

No. 2, 10 waivers is hardly enough authority to administer IV–B and IV–E. I think HHS should have the capacity to give at least 50, at least 1 for each State.

No. 3, the concept of tax credits for adoption is very powerful and very important and we support it wholeheartedly.

No. 4, the current rulemaking to consolidate State planning requirements for children's programs should be expanded to include other arenas, such as substance abuse prevention and treatment and housing that families in the child welfare system badly need.

In closing, please analyze all proposals for welfare block grants from the perspective of the safety of children. Second, please enhance the national standards for child safety. Please do not eliminate them. The decisions that we make will affect the safety of millions of children.

Thank you very, very much for the opportunity to be part of the discussion.

[The prepared statement and attachment follow:]

TESTIMONY OF PETER DIGRE, DIRECTOR
LOS ANGELES COUNTY DEPARTMENT OF CHILDREN & FAMILY SERVICES

Congresswoman Johnson, Members of the Committee. Thank you for the opportunity to testify today. My name is Peter Digre and I am the Director of the Los Angeles County Department of Children and Family Services, a public child welfare agency which, during 1994, responded to more than 165,000 reports of child abuse and neglect. Today, and every day I am personally responsible for the protection, care and nurturance of 58,000 children.

CONTEXT

We are confronted today with a myriad of proposals to restructure the program and financing for the nation's welfare and child welfare system - some of the proposals are quite radical. Neither I nor Los Angeles County have completed our analysis of the many variations on the evolving proposals so I would like to focus my comments on some of the crucial questions and issues which I hope Congress reflects on in reaching its decisions.

OUR FIRST PRIORITY MUST BE CHILDREN AND THEIR SAFETY

Virtually every week, if not every day, on our television networks, radio programs and newspapers and magazines, we see, hear and read about children who have been abused and neglected -- children who suffer at the hands of those whom our society has trusted to nurture and raise. Often, these people are the parents who have brought the children into the world; sometimes they are temporary caretakers whom agencies like mine have trusted to provide care for children who have already suffered abuse at the hands of others. Tragically, there are times in which the child welfare system itself fails to live up to the minimal standards required to insure the safety of children.

We, the people, the entire American public, agonize for each and every one of these children and their families. Overwhelmingly and universally, the American people cry out - THE SAFETY AND NURTURANCE OF CHILDREN MUST BE THE FIRST PRIORITY FOR ALL ELECTED AND APPOINTED OFFICIALS. The media knows the depth of this cry and holds us all strictly accountable.

POSSIBLE IMPACT OF SOME REFORM PROPOSALS ON CHILD SAFETY AND NURTURANCE

From the perspective of child safety and nurturance, many questions need clarification regarding proposals to block grant programs such as welfare, food stamps, child welfare and foster care.

I am extremely concerned that data exists which indicates that the combined impact of a block grant for welfare reform and a block grant for child welfare/foster care could have a severely negative affect on the safety of children and the child welfare system.

Block granting itself eliminates the traditional individual entitlement for AFDC and food stamps. During times of recession, capped state block grant resources will be confronted with growing numbers of families with children needing assistance. This will logically lead to significant reductions in the assistance provided to each individual family. In addition, proposals to drop families and children from assistance due to time limits or other reasons may involve eliminating as many as 5 million children nationally from assistance, including several hundred thousand children in Los Angeles County alone.

Since, in Juvenile Court statutes throughout the Country, the definition of "neglect" includes lack of food, clothing, shelter and medical care, many of the children removed from assistance would flood into the child welfare system due to the inability of their parents to provide for the basic essentials of life.

Our experience with the recession and the California 1992 AFDC cuts indicates that the numbers would be at least in the thousands and conceivably in the tens of thousands in Los Angeles County alone. In short, the nation's foster care system may well grow geometrically.

The attached chart indicates the intimate relationship between the economic well being and economic opportunities of families and the reporting of child abuse and neglect. You can also surmise the extreme magnitude of this issue by realizing that 1.8 million adults and children in Los Angeles County today are sustained at least in part by the welfare and food stamps system - this is more than 20% of the total County population.

Given this intimate relationship between economic sustenance and the entry of children into the child welfare and foster care system, it is not speculative to predict that a significant proportion of children for whom assistance is terminated or curtailed will enter the child welfare/foster care system.

Proposals have also been advanced to eliminate the child welfare/foster care entitlement and block grant child welfare related programs including family preservation, foster care, child welfare supervision and support for emancipating foster children to achieve independence. In short, resources would be capped and not need or workload driven.

Obviously, if both the welfare reform block grant and the child welfare block grant are implemented, the child welfare system could be confronted with an open ended Juvenile Court mandate and entitlement that would place countless numbers of new children into the foster care system, while only having a capped block grant to pay for their care.

Without hyperbole, we can reasonably conclude that there would be a drastic decline in the quality of care and safety for children in the child welfare and foster care system as the "capped" resources provide for growing numbers of children. There will be more children per caretaker, less support per caretaker, less training for caretakers, less social work supervision and treatment by less trained children's social workers, less preparation for independence, less adoptions, less family preservation efforts...The consequences may well be tragic.

THE SAFETY OF CHILDREN DEMANDS BASIC NATIONAL STANDARDS

Public Law 96-272, the Child Welfare and Adoption Assistance Act of 1980, was the result of many years of work by child welfare professionals, children's advocates and members of Congress. This measure has enjoyed strong bipartisan support.

PL 96-272 was intended to remedy a number of child welfare systemic problems using a "carrot and stick" approach.

The carrot is the Title IV-B incentive funds each State receives, and the stick is the provision that the State's caseload is in compliance with each of the Section 427 child protections.

The issues before your Committee today are whether these "427 reviews" have served to improve the lives of children; and whether eliminating these requirements and block granting these funds will strengthen the states' abilities to deliver child welfare and foster care services to children.

The 427 protections actually speak to only four dimensions in the foster care arena: case plans, periodic foster care status review; administrative review; and procedural safeguards relative to parents' rights. Each of these dimensions speak to both process and outcome for the children and families in whose lives the state finds it necessary to intervene.

I believe that these protections represent sound practice standards, a common sense approach to assuring that each child and family will be well-served. They represent a logical process for assuring that child welfare services are provided in a deliberate, thought-out fashion; that they are provided with some continuity and consistency across the country and throughout the period of time children are in the government's care.

My problem with the 427 process is that the "protections" are so limited. I would like to ask the Committee to enhance the 427 protections by including requirements that universally are vital to maximize the safety of children.

1. We know that abused children can be injured or neglected by caretakers if they are not regularly visited by children's social workers. Clearly minimal standards of visitation are a basic protection.

2. We know that children can be left in the care of child molesters when criminal and child abuse background checks are not completed. This should be a required protection.

3. We know that reasonable efforts to prevent placement is a meaningless concept, unless comprehensive family preservation services are uniformly available. Family preservation should be highly structured and available.

4. We know that without training, education, housing and employment, emancipating foster youth often find themselves homeless and supporting themselves through prostitution and crime. Basic requirements for preparation for independence are essential.

5. We know that children with complex medical and developmental problems can be adopted with specialized adoption subsidies.

6. We know that children's social workers who are carefully trained in risk assessment are less likely to allow children to remain in danger. This training should be a basic protection.

In addition to these recommendations, I would like to suggest the following:

1. Block Grants of Categorical Discretionary Programs

   Some block grants would work and benefit states and counties. For instance, there are 15 categorical discretionary programs under the jurisdiction of the Education and Labor Committee, which I believe should be analyzed as candidates for a block grant. Some, like the Grants to improve the investigation and prosecution of child abuse cases, are small - only $1.5 million appropriated in FY 1995. Others involve highly specialized programs, such as Crisis Support Centers. I believe we can more efficiently and effectively administer such programs and respond to local needs through a single block grant of these items, perhaps through IV-B.

2. Expand the Title IV-B and IV-E Waiver Authority

   HR 5252, enacted in 1994, gives HHS the authority to grant ten waivers. This really isn't enough to be really innovative on a national level. I recommend consideration that this waiver authority be expanded to at least 50 or more, at least one for each state.

3. Increased Incentives for Adoption

   Adoption is the preferred outcome for the children in foster care who cannot return to their own homes because of abuse and neglect. In Los Angeles County, in the twelve months ending September 1994, we placed more than one thousand children whose parents' rights had been terminated by the court in permanent and loving adoptive homes. Many of these adoptive placements could not have been achieved, however, without the Title IV-E Adoption Assistance Program.

   To make this program even more effective, the concept of tax credits for adoption as an additional incentive for permanency for children merits analysis.

4. Program Integration

   Last month, the Administration received comments on its Notice of Proposed Rulemaking, which would consolidate state plan requirements for several children's programs. I view this as a good first effort, but I recommend that consideration of it go even further.

   As our Family Preservation program experience has shown us, we need an even greater capability for accessing additional programs and services for troubled families. Examples include Substance Abuse Prevention and Treatment programs, Housing, and Title XIX Medicaid to assure a full range of services for multi-problem families.

CLOSING REMARKS

In closing, I would like to re-emphasize that a commitment to child safety, protection and nurturance requires that all welfare block grant and child welfare block grant proposals be carefully analyzed for their effects on the safety and nurturance of children.

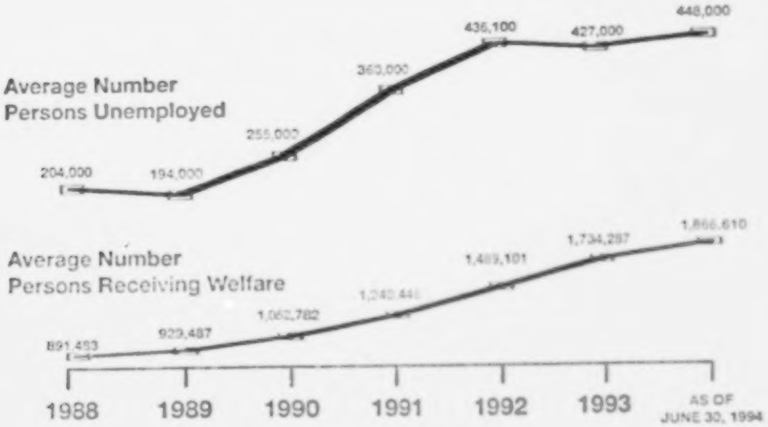
I'd also like to reinforce my conviction that national standards in child welfare and foster care provide the incentives and mandates for good practice, sound programs, and consistency for all children. Please enhance the standards for child safety. Please do not curtail them.

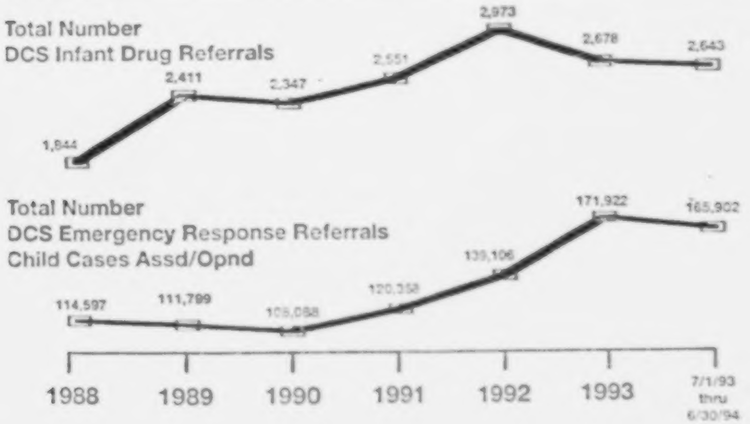
I have recommended a variety of ways for consideration to improve our child welfare policy, which would also provide to states an improved ability to deliver critically needed services.

I am honored to have had the opportunity to contribute to this crucially important discussion. I remain available to work with you in your efforts towards improvements in protecting children and strengthening families.

I am in awe of the magnitude of the decisions you must make since they will effect the well-being of millions of children.

Unemployment, Welfare, Infant Drug Referrals, Emergency Response Child Cases and Child Placement for Los Angeles County





Chairman JOHNSON. Thank you for your very interesting, useful testimony.

Mr. Murphy.

STATEMENT OF PATRICK T. MURPHY, ESQ., COOK COUNTY PUBLIC GUARDIAN, CHICAGO, ILL.

Mr. MURPHY. Since 1968, I have been litigating issues involving abused and neglected children at every level of the State and Federal Judiciary. Since 1987, I have been Cook County Public Guardian running an office of about 135 lawyers and 60 socialworkers and investigators representing primarily abused and neglected children, again at every state and level of the judiciary.

Secretary Bane pointed out that the 1980 Adoption Assistance Act improved the whole system of child welfare in response to a question from Mr. Levin, I think. Based upon my own experience, I testified twice before Senator Birch Bayh's committees leading up to this act and in favor of it. I wrote a book in 1974 where I said we needed more family preservation programs. All I can tell you is, based on my experience, things are much worse today than they were before the 1980 act, and I am not suggesting the 1980 act caused everything to get worse, but indeed they are much worse.

If you look at Chicago in 1986, there were 8,000 kids, neglected and abused kids in custody. Today, there are over 30,000. Nationwide in 1986, there were 262,000; today, over a half million.

Mrs. Johnson referred to the crack epidemic as causing this and 80 percent of our cases in Chicago are crack related. But what causes people to turn on to crack? In our judgment and what we see every day, it is the woman who is 22 years old, who has five children by different fathers, and none of the fathers are dads. She wakes up and she is depressed. She has got no education. It is a reality-based depression and she turns to drugs the same way you and I would if we were in the same situation.

We can get in a plane and go to L.A. or San Francisco or the shore of Michigan. These people cannot. They are stuck in the inner cities. They are stuck with the children without an education and no place to go, so they turn to drugs. Their paramour is the drug supplier and he abuses the kids and abuses the woman and that is what we see in the system.

The simple fact is that you cannot look at the child welfare system in our major cities without looking at what causes it. And what causes it is the underclass and that is what we see feeding into it. Ninety percent of the cases we see, probably closer to 100 percent some weeks, are the children of the underclass.

And again, Mrs. Johnson referred to the case in Chicago of the 18 children. Actually, it was 19 kids and these 5 women had 23 kids amongst them. We represent them. We are their lawyer. And the 23 kids had 17 fathers. And each one of these mothers had their first kid when they were between the ages of 14 and 16 because we have a welfare system which encourages irresponsible behavior.

If you look at the family preservation program, who do we reward? The 95 percent of the people in the underclass who do a good job under difficult circumstances of raising their kids? No. They don't get a farthing. But if you abuse your kid, we will run out with a socialworker, a housekeeper, a psychologist, chauffeuring services, and money. It makes absolutely no sense, but that is the way our welfare system has been conducted in this country and we see the failures of the welfare system in the juvenile courts.

I would just say beware of wolves in sheep's clothing who are going to come before you and they are going to say we need continuation of the same thing. And these people are academics and they are foundation people and they are government people whose livings are being made from this private and public welfare complex.

There are two types of politicians, I think, responsible for this, if I can lecture such an austere group of people, and that is Conservatives who have given over the responsibility for dealing with the poor to the Liberals, and the Liberals who haven't had a—and I perceive myself as a Liberal Democrat, by the way, though I think Liberal Democrats don't, but the Liberals who haven't had a creative thought in 30 years. And I think we have to come together to try to figure out ways of dealing with this very complex problem.

To use an example, Marianne Wright Edelman, who should know better, wrote in Mother's Day and Parade Magazine, if it is wrong for 13-year-old inner-city girls to have babies without the benefit of marriage, it is wrong for rich celebrities, too. Absolute garbage. A 35-year-old woman with a lot of money can raise a kid by herself but a 12-year-old kid or 14- or 15-year-old kid should be reading Chaucer, should be going to sweet shops, and should be doing other things. All I can say is I go to court, my 9-year-old kid is here with me today, not as an exhibit but because he wanted to get out of school. That is probably a form of child abuse.

Mr. LEVIN. Just a normal kid.

Mr. MURPHY. And I walk into court and I see kids the same age as my 9 year old and my 12 year old and I know they have the same ability and talent, but unless they can do the 40 in 4.1, we don't care about them. We are willing to spit their lives down the drain and that is what we are doing with the lives of the kids of the underclass.

And the way to do something about it isn't to give them more money. If I gave Joe $150 every time he broke a window, he would go break another window. If you give a 12-year-old kid AFDC because she has a child, it is cultural. What do you expect? We have got to change the system. We have got to rethink it. I don't have the answers. I am just a lawyer who goes to court. But we have to think about the answers and come up with conclusions. Thank you.

[The prepared statement follows:]

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TESTIMONY OF PATRICK T. MURPHY BEFORE THE COMMITTEE ON WAYS AND MEANS, SUB-COMMITTEE ON OVERSIGHT JANUARY 23, 1995

The Cook County Public Guardian's office acts as guardian for 400 elderly people who suffer from Alzheimer's disease and organic brain syndrome and also as attorney and guardian ad litem for 31,000 abused and neglected children in Cook County, Illinois. We have 250 employees 35 lawyers and about 50 social workers or investigators. The vast majority of our lawyers work in the Juvenile Court in Chicago.

I personally have been representing abused and neglected children since 1968 first as a legal services lawyer, then in private practicing and since 1986 as Public Guardian. I have argued cases involving abused and neglected children and their families at every level of the state and federal judiciary, including the United States Supreme Court. In 1974 I wrote a book about my experiences in representing abused and neglected and their families--Our Kindly Parent the State, Viking Press, Penguin Books.

In that book, and later on at least two occasions before Congressional committees, I argued that the poor were being victimized by the state's approach to child welfare. Along with others, I argued that family preservation would be cheaper for the government and better for the child. In my experience in the 1970's cases of actual child abuse were rare. We argued that most children were taken from poor parents because of the middle class bias of state social workers.

In 1980 congress passed the Adoption Assistance and Child Welfare Act ("AAA"). This act mandates that the state provide family preservation services to keep children at home. In Illinois, for instance, these services have taken the form of housekeepers in the home, cash vouchers up to $500, a downpayment of two months rent on an apartment, psychiatric or other counseling and chauffeuring services. The Adoption Assistance Act was the culmination of the "do not blame the victim" philosophy popular in the late 60's and 70's. According to this viewpoint, a poor, powerless and misguided parent is as much a victim as the child whom he or she has abused. According to this thinking, the state should provide services so that parents can learn to provide adequate care to their children.

Because we represent abused and neglected children, primarily at the Juvenile Court in Chicago, we see life from the bottom of the mountain, not the top. I cannot pretend that our perspective is that of an administrator or a bureaucrat or an academician. We are lawyers going to a specific court in a specific county, in a specific state trying to represent, as best we can, 31,000 children who range in age from a few days old to swaggering, defiant and down deep frightened adolescents. We cannot tell you first hand the effects of the 427 reviews. However, we can tell you first hand that they appear to make no difference, other than to increase bureaucracy.

In brief we believe that the 427 Review should be done away with because:

(A) experience shows they do not help;

(B) over the past two decades, the philosophy these reviews seeks to uphold has been shown to be not only muddleheaded, but positively counterproductive, in that it harms the very people it seeks to help, and

(C) anything we can do to reduce federal bureaucracy and to return decision making to those who actually face these problems is a step in the right direction.

Let's take an actual case. On September 15, 1994 Chicago Police charged a 31 year old woman living on the Westside of Chicago with endangering her nine children, age six weeks to adolescence. The police reported: "[e]ach child smelled of human feces, there was inadequate cleanliness, inadequate food, roach infested conditions and two inches of water in the house." The Illinois Department of Children & Family Services (DCFS) had been "working with" the mother for the past half dozen years. After the police took the kids from the woman, a DCFS spokesperson said: "From the time we've been involved with the family, we've been dealing with issues related to poverty...we can't take children away just because of poverty, and just about everything here...relates to poverty...."

Four years earlier, DCFS, with Juvenile Court approval, had taken the kids from the mother because she left home to get her welfare check and didn't think of coming back for two days. Her six children were left with an invalid grandma. According to investigators, at that time the four children:

> were without coats. Poor hygiene...standing water...soiled pampers throughout bedroom floor. Holes in walls and falling plaster....Older children

> admitted they had not had any breakfast for two days, only lunch at school and a sandwich for dinner. Infant was saturated with urine when child was taken into protective custody. Worker changed pamper and baby was so raw from diaper rash, skin literally came off in diaper. There was no food at all in the refrigerator, all baby formula was spoiled even bottle child was drinking from....

After a few months, DCFS returned the kids to the custody of the mother and began to offer her family preservation services. The State provided the mother with a housekeeper five days a week. They purchased beds and hired workmen to install a hot water heater and fix the holes in the wall. Somewhere along the line, however they forgot to make sure that the mother kicked her habit. Not surprisingly, four years later, the kids were in worse shape and there were three more of them.

I could write pages about the number of kids I have seen beaten, raped or killed while the state was trying to preserve a family that was not a family at all, but instead a couple of people whose sexual relations led to the birth of a child. In my view from the bottom of the mountain, at a collectively unconscious level, society simply does not consider the underclass kid to have the same worth as a white or black middle class child. These poor children are fungible commodities to be experimented with by sending them back to parents who have tortured or neglected them.

The child welfare crowd frequently takes a blasé attitude toward child abuse. Take a recent study[1] that divided all injuries suffered by children into four categories: Fatal, Serious, Moderate and Inferred. Moderate was defined in the report as "injuries or impairments for which observable symptoms persisted for at least 24 hours (e.g., bruises, depression or emotional distress.)" The authors of the report listed only six percent of all sexual abuse cases as serious, even though one third of all sexual abuse cases included penile penetration.

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[1] NATIONAL INCIDENCE AND PREVALENCE OF CHILD ABUSE AND NEGLECT: 1988, Revisited Report, Rockville, Maryland, Westat, September, 1991,

Therefore, the majority of cases where your friendly pervert screws a child are not serious. And it is only "moderate" sex abuse when the mom's paramour or the dad comes up behind a 12-year-old girl and fondles her breasts, or pats her butt, or bites her on the shoulder, or strokes her leg or crotch as they're watching MTV. And it's only moderate sex abuse when in one third of cases the lout actually screws the kid. But the true believers in the child welfare industry argue that these adults are victims who must be helped at the expense of the child's safety.

Could you imagine the response of feminists (or conservative, traditional women, for that matter) to anyone arguing that this type of behavior toward a nonconsenting adult woman is not serious? Or try suggesting that a boss who i mouthing sexual innuendos is not guilty of a serious infraction. Or that a goon who slaps his wife or girlfriend around leaving "injuries or impairments for which observable symptoms persisted for at least 24 hours (e.g., bruises, depression or emotional distress) causes only "moderate abuse." Beat up or rape the kid down

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as reported by Douglas Besharov and Lisa Laumann in a paper prepared for the Woodrow Wilson School of Public and International Affairs, Princeton, New Jersey, May 25-27, 1994, DON'T CALL IT CHILD ABUSE IF IT'S REALLY POVERTY.

the block and you'll end up in the can for a good long spell. Beat up or have sex with your own child and you'll get a social worker and housekeeper.

And the federal guidelines mandate that even when the children are taken away, the states must bend over backwards to send the children back home. Let me give you one more case of ours, but I'll let the Chicago Tribune explain it:

> A mother who stood idly by as her boyfriend repeatedly sexually and physically abused her three daughters, including one who later died, should be flown at taxpayer expense to Florida four times a year to visit her two surviving girls, [DCFS officials] are recommending.
>
> ...
>
> At the trial, testimony showed that [the mother] for years stood idly by while as her three daughters were beaten and raped by [the boyfriend]. In some instances, she had been in the same bed with [the boyfriend] as he sexually attacked her daughter, according to the testimony.

(The daughters were four, six and eight at the time that the younger one was murdered by the boyfriend.)

The 427 Review for family preservation is a great idea if there is a family to preserve. But, it is a horrible idea if it involves keeping children in returning them to a situation where they can be seriously harmed. The goal of child welfare should be child protection. At times, child protection means preserving the family. But federally mandated child preservation too often means that services are lavished on irresponsible individuals who have seriously harmed their children.

Family Preservation also makes little sense in the larger scheme of welfare services. Under its aegis, irresponsible behavior is rewarded and responsible behavior is denigrated. If, for instance, you take any floor of any housing project in the nation you may find seven families struggling heroically against impossible odds to raise their children adequately, three or four families providing marginally for their children, and one or two crack cocaine addicts who abuse their children or leave them kids alone while they go out looking for drugs. Which of the parents receives additional services from the tax payers? Not the seven families providing heroically for their children or even the families who are providing marginally care. Instead, the drug addict actively abusing or neglecting her children may get a housekeeper, money, intensive social work services, chauffeuring, to appointments and even several months rent for a new apartment, so that she can move out of the projects.

The message to people in the underclass is: act irresponsibly and you will get help. Act responsibly and you get nothing. I submit to you that this is a patronizing message. Because it involves the underclass, which in our major cities is comprised primarily of African American, it is a racist message.

These vignettes are anecdotal. But Chapin Hall at the University of Chicago conducted a massive three year study of the Illinois family preservation program—Family First. The study was the largest and most comprehensive ever performed on a family preservation. Chapin Hall concluded that Family First did not have any measurable success at keeping children out of the foster care system. Because the program cost $20 million dollars a year, the Chapin Hall report concluded that DCFS was spending $20 million to save $2 million, in effect wasting $18 million a year. In the best tradition of bureaucracy, the agency then sought to expand the program.

Chapin Hall reported that DCFS officials recognized that the Family First initiative would lead to deaths of some children, but apparently believed that the successes would outweigh these setbacks. Chapin Hall pointed out that "It is almost certain that the probability of child deaths will be higher in a program in which children at risk are left at home rather than taken into foster care..." The report goes on to observe, "The original designers of the [family preservation program] realized that such cases would occur and went to some lengths to devise responses to these crises." As a part of its evaluation process, Chapin Hall began gathering data on the deaths of children during and after Family First services were offered. However, Chapin Hall reported, that after a year or so, "DCFS administrators have asked us to suspend our study of child deaths."

DCFS gives security deposits and rent downpayments to people whom the agency perceives to be in danger of losing their children because of inadequate housing. This is a reasonable program if funds are not given to parents who have blown the egg money on crack, coke, heroin and booze. When Chapin Hall began to study the housing initiative, DCFS again told them "to halt all inquiries...."

Who are the children and families we see at court?

In 1986, 8,000 children were in substitute care in Cook County as a result of abuse and neglect. Today, there are over 30,000 such children. In 1986, 262,000 children resided in substitute care, while today there are about half a million. Most child welfare experts attribute this astounding increase to drug abuse. At least 80% of the cases we see in Cook County involve a drug addicted parent or parents. Lawyers in L.A. and New York tell me that their statistics are the same or higher.

At first I thought that drugs were the cause of the dramatic increase in child abuse, but not today. The usual case we see from the bottom of the mountain involves a woman in her earlier 20's with three to five children by several fathers, none of whom is involved with her or the kids. She becomes depressed and her depression is reality based. She is a high school drop out with little education and no job prospects. Her own mother had her first child when she should have been studying Chaucer or skipping rope. And she herself does not know her father. She wakes up one day realizing that for all intents and purposes her life is over. And, probably so too are the lives of her children. She turns to drugs as a reasonable, cheaper and certainly more viable alternative to a trip Vermont, the shore or Europe. And if you or I were in her shoes, we would turn to drugs or worse.

She becomes more depressed, withdrawn, forgets her children and goes off for hours, days, and even weeks leaving her kids for neighbors and family ultimately to rescue. In many cases her drug supplier becomes her paramour and ultimately the abuser of her children.

The underclass was not created by welfare, but today it is sustained by a welfare system that encourages dependency. The problems of the underclass are exacerbated by the flight of companies to underdeveloped countries. To succeed today, you need at least a high school diploma and probably more. Children having children do not finish their high school education. People of the underclass do not have the high school education plus more. The Right ignores the plight of the underclass and the Left patronizes it, which is just another form of racism. Marion Wright Edelman of the Children's Defense Fund, who knows better, wrote in Parade Magazine on Mother's Day, 1994, "And if it's wrong for 13-year-old, inner city girls to have babies without benefit of marriage, it's wrong for rich celebrities too." The fact is, most single women celebrities who are having children are not children, and they have the maturity and financial resources to raise a child reasonably well. Thirteen year old girls should be doing math, playing volleyball, and working on computers, not changing diapers and worrying about their W.I.C. funds, AFDC checks and food stamps.

Every Sunday afternoon, I see large African American men running up and down the gridiron, knocking other men down and scoring touchdowns. Colleges and professional teams demand excellence from inner-city African American athletes. Society, schools and the Left expect nothing from inner-city African American kids, whether bright, average or dumb. The most depressing part of my job is to walk into juvenile court on any day, and to see kids about the same age as my own two sons, with the same potential for excellence and achievement, who will never have the chance to attain that potential. As a society, we should demand excellence from everybody, but most particularly from those who have no one else to motivate them to reach their potential.

I compare the underclass I see in court today to the poor I represented in the

60's and 70's, and the comparison is invidious. I now see five or six generations, 15 years apart, of welfare dependent families without constant male authority figures; schools that do not--and cannot without parental involvement--educate; factory jobs exported to Asia; a welfare system depriving people of dignity, fostering irresponsible behavior and belittling self-discipline; drugs sold on street corners as freely as soda, and guns as available as drugs; and the whole mess a Gordian knot resisting solutions and ready to explode in the outer cities as random violence and in the inner city as rioting and looting.

A New York Times' journalist points out that "while the cost of welfare is not small, it is not as large as the passions that surround the issue...."[2] The cost of AFDC may not be astronomical, but it is devastating in terms of spinoffs such as children who ultimately end up in the criminal justice system, who are abused and neglected, or who simply live out their lives in despair on welfare themselves. To understand the underclass and the problems of the underclass, legislators, members of the Administration and other politicians should not read boring statistics which can be argued every which way. Instead, they should spend a few days, weeks and even months in our criminal and juvenile justice courts in any moderately sized city.

The Democrats have predictably blamed Ronald Reagan, who has become the liberals' favorite whipping boy for all the social ills facing our country. Reagan was not exactly Oscar material, either before or after he was elected president, but

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[2] New York Times, December 5, 1993.

I suppose it is only fair that the liberals place the blame on him for the underclass because conservatives have excoriated L.B.J.'s expansive and "irresponsible" programs for the same problems. But it does seem just a bit much for the liberals to shirk their own responsibility, when it was we, liberals, who hushed up the Moynihan report, when he warned us of the coming underclass syndrome almost three decades ago.

The Moynihan report was one of the earliest victims of political correctness. Moynihan pointed out what he perceived to be an alarming statistic--that 25% of all black children were being born to single moms. He also prophesied that the implications of this report could lead to increased misery among very poor African Americans. In other words, although he didn't call it that, he was alluding to what has since been tagged as an underclass. The Left would have no part or Moynihan or his report, both of which were labeled as racist. What they were really saying is that we cannot openly discuss the implications of this report because so many Americans are racist, and they will surely take these statistics to mean that African Americans are somehow less stable, less moral, less ethical and less family oriented than their white counterparts.

Instead of admitting to the problems of the underclass and welfare dependency, the Left purposely misstated the statistics, arguing that the majority of individuals on welfare are white. Of course this is true, but the vast majority of Americans are also white. When the statistics are studied realistically, it is clear that a welfare dependent, primarily African American underclass wallows in misery.

The Bane/Ellwood studies show that when first time recipients of AFDC are broken down by race, 60% are white, 35.7% black. At any one time, 48% of recipients are white and 47.5% are black. With respect to the percentage of individuals who receive AFDC for more than ten years, 15% are white, and 33.7% are black.

Most of the cases we see in Juvenile Court involve the underclass. Because in our major cities the underclass is primarily African American, the majority of our abused child clients are black. The problem is not racial, but neither is it economic. It is cultural. A culture of welfare dependent individuals recycle their welfare dependency and misery to a new generation every 15 years or so, and that population, for reasons dating back to slavery and segregation, is primarily African American. If we do not stop now, examine the problem and, as a society, try to do something about it, it will explode to haunt the rest of us and our children for generations to come. Worse, we as a society are flushing the lives of many potentially talented human beings right down the toilet. But forget the talented human beings, why should a decent society shove aside innocent children, talented or otherwise, because they come from a certain background?

In an article written for the Chicago Sun Times, The ACLU argued that welfare reform could be unconstitutional:

> The child exclusion is not about saving money;
>
> it is about singling out poor children for punishment because of the decisions of their parents. The goal of child exclusion proposals, as outlined by its proponents is to coerce 'welfare mothers' into not having children. But just as the government cannot outlaw abortion and require women to bear children, the government cannot prevent

women from having children.[3]

The goal of welfare reform should not be to prevent women from having children, but to encourage teenage girls to make decisions based upon microeconomic realities and to delay child bearing until they are adults who are capable of supporting their children. The ACLU argument that poor children are being singled out for punishment is garbage. AFDC checks go to moms, not kids. These mothers make decisions how to spend the money and live off the checks as much as the children, and some times more. Most mothers receiving AFDC checks do use the money for the benefit of their children. But welfare cast as a children's issue makes questions of welfare dependency disappear.

CONCLUSION

Children, primarily from the underclass, are pouring into the Juvenile Court and child welfare bureaucracies, primarily because of the failures of our welfare system. I implore you to devise ways to cut down the federal bureaucracy and guidelines, which stifle creative thinking on the local level and which seem to exist only to uphold a politically correct philosophy, which no longer make sense.

The child welfare bureaucracy and its supporters are already turning up the heat, arguing that reform will harm children. The reality is that children are being harmed today by a welfare system which rewards irresponsible behavior and fails to encourage teenagers to pursue educational goals and to escape the underclass through persistence and hard work. Children are being harmed today by a child welfare system which rewards parents for irresponsible behavior towards these children, by keeping these children in the homes of abusive parents.

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[3] Article from the Op-Ed Column of the Chicago Sun Times, June 25, 1994, by Deborah Lewis, Legislative Counsel for the Washington, D.C., legislative office of the National American Civil Liberties Union.

And please do not forget that those who complain the loudest have financial incentives to do so. Child welfare is a major industry in this country. The Department of Children and Family Services in Illinois receives over one billion dollars a year in taxpayer support. Those who argue loudest against welfare reform more often than not earn their livings as part of a private/public welfare complex. President Eisenhower's 1960 dictum concerning the evils of a military/industrial complex today can be applied equally to public and private welfare and child welfare elites today. These individuals hide behind abused and neglected children in an attempt to keep the money flowing into their own coffers.

Chairman JOHNSON. Thank you very much, Mr. Murphy.

Ms. Barr, I would like you to describe in a little more detail your State's oversight system, because you mentioned that there are three different systems. You have to do certain things under section 427 that you don't normally do. But in your testimony, you describe in rather more detail what your State actually does and it sounds to me very sensible and appears in practice to have been very effective. So what do you do and what is the contrast between what you do and what 427 would have you do?

Ms. BALASCO-BARR. Section 427 requires us to do the division-directed case reviews that alternate with the court when there is court supervision of out-of-home placement. The Child Placement Review Board works from the judiciary system. It is a group of volunteers who are located in each county in New Jersey and they, too, review out-of-home placement cases and hold informal hearings regarding those same children. My point was that there are three bodies then reviewing the same case.

Chairman JOHNSON. What is your success with the volunteer review process?

Ms. BALASCO-BARR. It is—I value that, because oftentimes we get tied up into what is good case practice and sometimes forget what is good common sense and oftentimes the volunteer perspective brings to the case review process very good basic common sense. And that is the value of having lay volunteers reviewing the cases who are vested solely in what is good practice and what makes good sense for this child.

Chairman JOHNSON. Very interesting.

Mr. Murphy, do you believe that this kind of citizen review board random outcomes testing, random intervention would be better than the bureaucracy that we have now? Might it enable us to reach these problems earlier or manage them more efficiently?

Mr. MURPHY. I think we are just kind of playing around with something like a shell game, as I think maybe my testimony implied. I just think the whole system needs total rethinking. There should be more local control. Where the money comes from is something I am not an expert on. But I think that the control and the direction should be on a very local basis.

Chairman JOHNSON. Thank you. Mr. Matsui.

Mr. MATSUI. Thank you. I would like to just say, Mr. Horn, welcome back, and Mr. Murphy is making you look like a Liberal. I want to thank both Ms. Barr and certainly Peter Digre is a good friend and somebody that we have used often as a resource. We appreciate your coming from Los Angeles.

Mr. Murphy, I would like to ask you a question. You have 135 lawyers, you were saying, in your operation, your division, I guess it is?

Mr. MURPHY. Yes.

Mr. MATSUI. And you are in charge of making sure that well, you are a guardian for children, right, you are a court-ordered?

Mr. MURPHY. No. The public guardian name is a misnomer. We act as a guardian for elderly people in one small division. We take care of them and their estates. Our largest division, which I took over in 1987, there were 12 lawyers when I took it over, now there are 135, and there were no socialworkers. Now there are about 60. We act as lawyers for children in that division.

Mr. MATSUI. So 135 lawyers under your jurisdiction——

Mr. MURPHY. That is correct.

Mr. MATSUI. You have jurisdiction over children? You are the lawyers for the children?

Mr. MURPHY. That is correct.

Mr. MATSUI. In other words, you are the guardian—then your department, I guess it is, is a guardian for these children?

Mr. MURPHY. We are their lawyers.

Mr. MATSUI. And this is how many thousand, 30,000?

Mr. MURPHY. Thirty thousand.

Mr. MATSUI. It started with 8,000 in 1980; it is 30,000 now?

Mr. MURPHY. Correct.

Mr. MATSUI. Now, this is the State. In other words——

Mr. MURPHY. The county.

Mr. MATSUI. In other words——

Mr. MURPHY. Chicago and its suburbs. The city of Chicago and its suburbs, about 6 million people.

Mr. MATSUI. Right. And you indicated—Chairwoman Johnson mentioned the 19 children that were left abused. And then I recall back in—if I am not mistaken, back in 1993, if I remember, in February or March of 1993, there was a situation where a mother had, I believe, killed her child?

Mr. MURPHY. That is correct.

Mr. MATSUI. We had a hearing about that.

Mr. MURPHY. That is correct.

Mr. MATSUI. In Chicago, if you recall, that some of us were interested in.

If you are the guardian and you have 135 lawyers, why is it you are not able to deal with these problems? Because it would appear to me that as guardian, you have a personal responsibility to making sure that these children are taken out of that kind of a situation. Why did that happen?

Mr. MURPHY. Well, we are the lawyers. Again, we are not the State agency which usually appears, which is the guardian. And what we end up doing is suing the State agency. We have won over 1 million—I won't go into all the lawsuits we have had against them.

One of the frustrations I feel, though, is when I came on board in 1987, I thought that suing and, as I said, we won all kinds of cases, would bring about reform. What you realize after awhile is that——

Mr. MATSUI. If you can answer my question, because you are—I have to understand this. You say you sue State agencies, but you do that on behalf of a particular child. Is that correct?

Mr. MURPHY. That is correct.

Mr. MATSUI. So if that child who was murdered by the child's mother, why did you not—you were the guardian of that child.

Mr. MURPHY. We were the lawyer. That is a good case, because that is a case where I think our lawyers goofed up and it was a family preservation case.

Mr. MATSUI. What lawyer goofed? Not your lawyer but somebody else.

Mr. MURPHY. Me. I think I goofed up in that case because I am responsible for the lawyers under me. This is a case, a good case to talk about, where a mom who spent years in a psychiatric facility was doing disgusting things. She was eating glass, sticking bottles into her, that's where the State came in and said that we want to keep the kid with the mom.

Mr. MATSUI. Right.

Mr. MURPHY. We ultimately went in and argued the kid should not live with the mom and we lost the case and we refused to appeal it thinking that we couldn't win. It came to court the second time and we agreed with the State the second time that this was a great family preservation case, we should put a housekeeper in the home. There was a housekeeper in the home 7 days a week. And the woman turned out and murdered her child. It is a good example of family preservation gone crazy, and we were as much to blame as the State in that case in agreeing to it.

Mr. MATSUI. And this is just the point I want to make, because this was a State-operated program.

Mr. MURPHY. That is correct.

Mr. MATSUI. In fact, what you are doing now is under State operation at this time.

Mr. MURPHY. No, no. It is a federally—don't forget family preservation came from the Adoption Assistance Act and it came from the 19—that is where it came from, right? So that Illinois was reacting and they had a special $20 million grant from the Feds to do this.

Mr. MATSUI. No, no. What I am talking about here is that your department is a State-operated——

Mr. MURPHY. County.

Mr. MATSUI. County, excuse me.

Mr. MURPHY. It is government operated.

Mr. MATSUI. I guess we just talked about the 19 children that were left.

Mr. MURPHY. We were not involved in that until they came into the system, of course. We were not their lawyers when they were living out there.

Mr. MATSUI. Doesn't this point out the problem with the entire system and the fact that here you are—you are running it. You are the one that should be in charge of this.

Mr. MURPHY. I am in charge of the lawyers——

Mr. MATSUI. It is one thing to rail about how terrible the system is, but what specific steps are you taking right now to try to deal with it? How can the Federal Government help you with this? Because we are having the same discussion that we had 2 years ago, and you are still doing the same thing but you haven't come up with any solution.

Mr. MURPHY. The solution—the solution is this, is that you and I are talking about lawyers going to court and socialworkers——

Mr. MATSUI. No, I am not. You are talking about that. Tell me what recommendations you would make specifically to us so that we can pass legislation to make your job better and make sure those 19 kids aren't in a position of disrepair and that young child doesn't get murdered?

Mr. MURPHY. You should put me out of business.

Mr. MATSUI. We would like to put you out of business, for good reasons.

Mr. MURPHY. Mr. Matsui, I know I am in Congress here, but you asked me a question. I would like an opportunity to respond.

Mr. MATSUI. I don't want a filibuster. I just want you to answer the question.

Mr. MURPHY. I will.

Mr. MATSUI. Good.

Mr. MURPHY. And that is my own agency has gone from 12 lawyers and no socialworkers to 135 lawyers and all these socialworkers in just a few years. The State DCFS office has tripled its budget in a few years. There was a prognostication by Secretary Bane that maybe things will level off. I will tell you they will double in our major cities in the next 5 years. Why? Because no matter what you do within the child welfare system, it will have no effect because the child welfare system is a product of the underclass and of our welfare system, which is in total disarray. So no matter how many billions and experts and socialworkers you pour into the child welfare system, it doesn't mean a thing, because as long as you have 14-year-old kids having kids, which no lawyer, no socialworker, no bureaucrat, no Congressman can do anything about, as long as we say we don't care if you get an education or not, we are going to continue to reward you, the system is going to be in disarray. We have got to change our welfare system and take a look at what—who we are encouraging.

You know, the real problem is that—I know the Democrats like to blame Reagan and the Republicans, Johnson, but no one listened to Pat Moynihan in 1966 when he prognosticated what was going to happen when kids were having kids without the benefit of fathers. We see it every day in juvenile court. That is what we have got to address.

Mr. MATSUI. Let me say this. I think you are getting to the root cause of our problem. And again, I shouldn't say root cause. But you are getting to the fundamental problem that we are trying to deal with here. But given the fact that we are trying to deal with the welfare system and that is in the same general area but on a separate track at this time, we still are talking about the child welfare system at this particular time and just to suggest that we just throw it out is——

Mr. MURPHY. I am saying not throw it out.

Mr. MATSUI. What are you suggesting, then?

Mr. MURPHY. I am saying unless you concentrate on this bigger welfare system of the underclass, it doesn't make a difference what you do with child welfare. You can run it from Washington, you can run it from Springfield, you can run it from L.A., you can run it from Mogadishu, it doesn't make any difference because we are feeding into it from the underclass and it is the underclass that you have got to attack. You have got to attack that problem because it will make no difference. We are going to double the size in Chicago, I can tell you, in 5 years.

Mr. MATSUI. Let me just conclude by saying I tend to agree with you. I tend to believe that the problem is going to get worse and worse. And we have a long ways ahead of us.

Mr. MURPHY. Because the underclass is growing.

Mr. MATSUI. I would like to thank all four of you. I am sorry I didn't get a chance to ask you questions. I do appreciate and look forward to working with you.

Chairman JOHNSON. Thank you. The panel has really given excellent testimony.

Mr. Hancock.

Mr. HANCOCK. Thank you very much. Mr. Murphy, I read the last paragraph in your statement. I would like to get a response to the statement that you make that this is a major industry, that actually it is to their benefit to increase the number of people on welfare because that is the way they make their living.

Would you like to make a statement on that?

Ms. BALASCO-BARR. I appreciate the opportunity to make a response to that, because when—I think we can get so overwhelmed by the numbers of what not—what is not working that we don't take the opportunity to look at where in States family preservation is working and where there has been decreases in the number of children coming into foster care and what model programs are working in several States, three of which that I know of personally because I was there. In Michigan with the Kellogg Foundation, looking at neighborhoods, building neighborhoods, changing neighborhoods, helping communities become more responsible for the children and families that live in those communities; Governor Whitman with her urban initiatives going back to the center cities, empowering communities, empowering church groups, empowering small neighborhoods, small groups to be responsible for the children that we have to serve, finding different ways that don't involve children going into foster care but still require the State or the city to spend money to help people improve their housing, improve their child care, improve their education programs, having substance abuse programs that serve people where they have to learn to live.

Mr. HANCOCK. Pardon me. It sounds to me like you are talking volunteerism. You are talking about getting people involved in this area whose personal income is not necessarily tied to our welfare programs. Am I correct in that statement? Mr. Horn, would you like to make a comment?

Mr. HORN. At the risk of no longer appearing Liberal to Congressman Matsui, I would like to——

Mr. MATSUI. I ruined your reputation, I am sorry.

Mr. HORN. I think that one of the points that Mr. Murphy is making is a very important one, which is that when you separate out, particularly biological, fathers from the household, what you get is an extraordinary increase in the potential for abuse. By one study, the estimate is that abuse goes up 40 times when biological fathers are out of the household.

Now, there are lots of reasons for that. One is there are less resources for the family. The second is that parenting is less public. There is not a partner to help you. The third is you tend to introduce nonbiological males into the household and that can be a very dangerous situation.

The fact of the matter is there is a great deal that can be done to improve this situation through child welfare reform and also welfare reform. Unless fathers start to take their responsibilities more seriously and more men are in the homes to raise these children along with the mothers, unless we change that culturally, we are going to see exactly what Mr. Murphy predicts, which is a rising caseload in child welfare.

One of my complaints about the current system is that there are so many games States and local agencies have to play in order to access money for very specific purposes, that there are few resources left to address this problem, the problem of fatherlessness. One solution is to say OK, let's start a new fatherhood program. Let's appropriate $100 million and go out there and support fathers. Well, that is the wrong way to go. The right way to go is to give States and local agencies flexibility, and if, in fact, fatherlessness is an issue in their community, let them use the money to address this problem.

Now, to the issue of whether there are people getting wealthy off the child welfare industry. Certainly there is a lot of money in child welfare and there are people making money off child welfare. But I don't think there are a whole lot of millionaires who are running around because of funding streams that are coming from Washington for the child welfare system.

But clearly the incentives are wrong. Mr. Murphy is right, the incentives say abuse your kids, you get lots of services. But if you stay in school, you don't impregnate a girl, and if you do, you get married and you get a job, then where are the support systems for that family? We need to change the way that we do things fundamentally to encourage much more positive family life and parenting.

Mr. HANCOCK. What you are saying basically is it is going to have to be done through an educational process or a reeducational process that the male does have responsibilities in addition, because I don't think the schools are teaching that now. They are saying, we will provide you the equipment and encourage you to have sex.

Mr. DIGRE. Yes. I think Mr. Murphy created a misimpression in terms of the nature of people that I see flooding into the child welfare system. We had a real good case study in California in that our AFDC grants were cut twice in the end of 1992, and what we saw coming into the child welfare system was people who lacked the basic essentials of life: Food, clothing, and shelter.

We saw a vast—40 percent of all the people who came into our family preservation programs were there basically for the reason that they simply could not find housing. And so it is not—certainly there are many dangerous people who should never be—have access to their children and never be reunified with their children. But there is also a huge proportion of people who end up with kids in the foster care system who simply lack the wherewithal to raise their own kids. It gets down to those very specific issues about a place to live, food on the table, medical care, and things like that.

So I thought that was—that was much too strong a statement about the nature of the parents that we see. And I would invite any of you to come to Los Angeles to sit in one of our family preservation programs and talk to several dozen parents in a family shelter and judge for yourself whether there is hope for their futures if they can be stabilized in the economy.

Mr. HANCOCK. Thank you, Madam Chairman.

Chairman JOHNSON. Thank you. Now we go to Mr. Herger.

Mr. HERGER. Thank you, Madam Chairman.

If I could just follow up, please, Mr. Digre. Could you tell—as I am listening to you, I believe you are stating that because these families, because of the economy downturn, they don't have enough money, therefore we are seeing these problems multiply. Could you tell the committee your estimate of how many families you would say in your experience that are losing their children solely because of not having enough money?

Mr. DIGRE. Approximately half.

Mr. HERGER. So solely for no other reason just that there isn't enough money.

Mr. DIGRE. Now, it is what Mr. Murphy talks about. People at some point start to give up. That is when you start to see the introduction of crack and other drugs. But, you know, there is a point at which I would say about half of the families are not physical abusers, not sexual abusers, not people with propensities to violence but simply people who are struggling to keep ends pulled together and are eminently salvageable.

One of the things we have done is we implemented our big, very comprehensive, intensive family preservation program in Los Angeles in 1993. We brought it up covering half the county, half the zip codes in the county but not the other half. So we have compared the two.

What we have seen is in those areas where we have a real package of supports, a very intense package of 23 services and 16 visits a month to keep families together, we have had no growth in foster care whatsoever. Where we have not had this program, we saw during that same time period in 1994 about a 20-percent growth in the foster care population. So we saw about a 20- to 25-percent difference whether or not these were available. And what we found time and time again, what people were struggling with was the food, clothing, and the overriding issue of shelter and to back that up things like drug treatment, employment help, things like that.

Mr. HERGER. So you are—in about half the cases your department is removing children from families solely because they don't have enough money?

Mr. DIGRE. Not solely. People get into a whole complex of problems.

Mr. HERGER. That was the reason you mentioned, about 50 percent——

Mr. DIGRE. That seems to be the trigger. People lose their housing. They end up living on the street to support themselves. They get arrested. They get attracted to the drug culture. There is a whole host of things that develop.

Mr. HERGER. Remember what my question was. Your statement is these people don't have enough money, therefore they are losing their children. Evidently, it is your department's practice to remove children from families in about 50 percent of the cases because they don't have enough money.

Mr. DIGRE. What our juvenile court law is—the definition of neglect is children who are deprived of food, clothing, shelter, medical care, and the other essentials of life. So yes, if families are destitute and cannot provide food, clothing, and shelter under the juvenile court law, those children will enter the child welfare system for neglect.

Mr. HERGER. And that is about again, I don't want to belabor it, about 50 percent in the Los Angeles area.

Mr. Murphy, if I could return to some questioning from Mr. Matsui. It almost sounded like you were saying—I want you to clarify it, is it because of policies that we have at the Federal level that are leading to the fact that you have had such a dramatic increase in lawyers that you have needed in instances where—we even have a mother, I believe you mentioned, who was eating glass and yet the system chose to have these children still in her family, under her care? Does part of that come because of incentives or dollars that are coming from the Federal Government?

Mr. MURPHY. No. That answers the question. I think that the system has grown so much with people coming into it that what was perceived a few—and I think there has been so many problems within the child welfare system of kids being harmed within it that we on a local level felt there was a need for lawyers acting as advocates to fight the system. Most of our lawsuits are against the State of Illinois even though we are a government agency. So that is why it has grown.

My frustration is that as I tried to articulate in a not very good basis is that you reach a point where you understand that no matter how many hours you work, no matter how many cases you win, that because of this growth of the underclass, of basically children having children without any—without any chance of—having any chance in life that it is going to go on and on. By the way, I am not against family preservation programs. I am just against the way they were conducted.

Mr. HERGER. Being conducted in a manner where a mother can eat glass, as you mentioned, and still the recommendation of the agency is they stay in the family. You would tend to think that that is not a proper policy.

Mr. MURPHY. We take the most extreme cases. My own lawyers and I was at fault in that case, too, as I told Mr. Matsui, and that is an extreme case.

I will give you a less extreme case where a—a case came in with an undernourished kid at 6 months, went into the hospital, the doctors didn't want to send the kid back home because the woman had an IQ of a 6 year old. And the State of Illinois said we have family preservation in the home, we have a housekeeper there.

I looked at the report, it said the woman had—living at the house was a mess. There were cockroaches all over the place, rodents and garbage up to the ceiling, and also living in there were dogs, cats, a guinea pig, and a monkey. You say to yourself a monkey? Well, maybe that was the smartest person in the house. Maybe smarter than the socialworker who let this go on. That is the extreme you can go to.

The University of Chicago conducted a 5-year study, said it didn't work. It didn't harm, it didn't help. Families should be preserved if there is a family to preserve. It is cheaper and better for the kid, no doubt.

Mr. HERGER. Let me conclude, I do have to agree with both you and Mr. Horn that a system that can allow a situation you just described, also a system that spent approaching $5 trillion over the last four or five decades and has the type of results that we are having now definitely needs to be turned around, and I commend both of you in your attempt and this committee is hoping to change that. Thank you.

Chairman JOHNSON. Thank you, Mr. Levin.

Mr. McDermott.

Mr. MCDERMOTT. Thank you, Madam Chairperson.

I want to set a little context here. The two States that are held up as examples as the way we ought to reform welfare are Wisconsin and Michigan. They cut their welfare costs recently by dropping their grant in one State from $544 to $517 a month for a family. In another State, it was $525, now down to $459. Louisiana, for a family of three, welfare is $190 a month and in the State of Mississippi, welfare is $120 a month. Now, being an Irishman from Chicago, I appreciate the subtlety with which Chicagoans deal with issues.

I would like to deal with some of the rest of you here and talk about this business about children born to children. I have been a witness, an expert witness in dozens of cases as a child psychiatrist on where the kids should be placed, so I have some experience on the street. If a young woman comes in and she has had a child, she is 15 years old and we pass a law in the Congress that says if she is 15 years old, she goes back to school. If she doesn't go back to school, she doesn't get any welfare money and if she does not go back to school or she doesn't stay in school—the Chicago schools, as I know them, or some of the big city schools in this country, are not exactly conducive, we take the kid away from her at that point.

Well, let's—first, we could put her with the family, right? We could let the child be adopted by her mother. Now, very likely this is a family where there might have been some history of the same sort of thing happening. But then what do we do? Do we take the child out of the home? If the girl won't go to school and won't seek to better herself what is the next step? How do we know? Because the argument in the court, in most cases when I was in court, I was in on behalf of the mother because the State didn't provide any services to these very inadequate mothers and so to then say she is an inadequate mother when the State is taking the kid away and say you are not a good mother while doing nothing to help her, it seems like a self-fulfilling prophecy.

What I want to know is what you would outline. When should the State step in and say, OK, young lady, you have not done right by your child and we are going to take that child away from you and put it into an independent—I hate to use the word "orphanage," but some sort of setting. I mean, how would you set the system up to break that cycle that we are talking about?

No, I don't want Mr. Murphy from Chicago. I want to hear from these three. They have been quiet.

Ms. BALASCO-BARR. The first thing that we would do is see if the girl's parent is able to provide a home for both her and her new child. And oftentimes——

Mr. MCDERMOTT. Even if it is a welfare mother?

Ms. BALASCO-BARR. Even if it is a welfare mother.

Mr. McDERMOTT. OK.

Ms. BALASCO-BARR. That doesn't preclude you from being able to care for your children.

Mr. McDERMOTT. She would no longer get the grant. You would increase the grant of the grandmother?

Ms. BALASCO-BARR. The grandmother would become the grantee for her grandchild, essentially. Oftentimes, we find that these are problematic families and some States have been able to put together programs where the adolescent and her baby are placed in what we call "group homes" where the foster parent or the group home staff model for her how you are supposed to care for that child and begin to do two things: Reparent the girl who has had the baby and also model for her what is appropriate child-rearing practice, and at the same time she is going to school and getting an education that will lead to self-sufficiency.

But again, this is one of the rules that we have gotten a waiver on in that in order to place a child with foster care, there has to be a ward of the court. But waivers have been given so that the—that is a unit. The young girl and her baby are a unit in foster care and we are able to provide those visits at that time. There are some real good programs around the country, Lewell Belle Stuart in Detroit that has done a good job with taking young girls and their babies and turning them into self-sufficient young adults.

Mr. McDERMOTT. What is it that prevents those real good programs from being massively applied across the country? Because there are always these demonstration projects, as you say, that work very well. And you say to yourself, every State can see what they are doing in Detroit; why don't they do that everywhere?

Ms. BALASCO-BARR. I think it is because it is—you get so focused on doing it that you don't get out and tell everybody about it. And you consistently take care of the children that come under your supervision in your locality. I don't think there is anything unique or different about somebody having common sense and saying you put the two together so that you don't repeat the mistakes in the future. And at the same time, you have that ongoing—and it is sort of appropriate because we have the Right to Life people protesting today, but the responsibility of what is good sexual responsible behavior is also a part of what is taught to these young girls when they are with us in these group homes and in these special family programs.

Mr. McDERMOTT. But people in Chicago are desperate. Their numbers are going up astronomically. Why don't they look over to Detroit and see that program in Detroit and say, why don't we try that here in Chicago? What is it—they are certainly looking for solutions, don't you think?

Ms. BALASCO-BARR. I am going to respond because I used to be a children's protective services worker.

Mr. McDERMOTT. Yes.

Ms. BALASCO-BARR. You get so overwhelmed by the problem you don't see the solution. And one of the things that I believe has helped New Jersey work well, Michigan work well, Wisconsin, Oregon, et cetera, is the quality of the supervision. It is the quality of the training. It is the requirement of the monitoring under Public Law 96–272 that keeps the system honest. And I am being very careful talking about Michigan and New Jersey because that is where I work. But it is—it isn't a philosophy. It is a worker's sole belief in family preservation and making good decisions in the best interest of children. And you can't legislate that. It is a feeling. It is in your heart or it is not. And some of us don't need to be in child welfare because we get so hooked on the examples that we have been given from Chicago where somebody wasn't thinking, somebody only looked at family preservation and not what is in the best interest of a child.

The magic of family preservation is training, is supervision, it is review. It is not money. It is not oversight. It is a belief in a direction that this is good practice for children and families. Michigan does not write off substance-abusing mothers.

Mr. McDermott. You must be a little worried watching us try to write rules to tinker with the system that imply that we know how to legislate from up here what ought to happen out there.

Ms. Balasco-Barr. No. What we look for from Congress is direction and intent. We count on the administration and the executive branch to give us the rules that we have to go by. And then we get down to case practice and go back to them and say I know what your intent was but this is what actually works.

Mr. McDermott. Tell me about Los Angeles County. What would you do with the case I outlined, 15 year old, won't go to school?

Mr. Digre. OK, specifically, if the 15 year old is not in any way abusing or neglecting her infant, we wouldn't do anything. You know, she would simply, if she was on the public assistance system, would simply be a participant in it. If the child becomes abused or neglected, then it would really depend on the nature of the abuse and neglect and really our judgment about what her capacity is to make changes and to be able to safely take care of the baby. And the alternatives have been pretty well outlined here. In many cases like this, through education, through support, with helping them get back in school, helping them prepare for employment, helping them to stabilize their life through family preservation, she can simply raise her own baby.

Many, many—in many cases, we see that the family structure is so chaotic that probably half of the kids end up growing up with an aunt or a grandmother. That is half of what all foster care is in this day and age. So they are often kept in the kinship system with an aunt who has a more stable lifestyle or with the grandmother who has really got some strength and is ready to do it.

If you do have to remove them entirely from their family network, there are basically two choices and you have to make a judgment about this young woman's potential to grow up and be able to nurture the baby. We have several opportunities where mothers and babies can live together in the same place but in a very structured and protective environment so she can complete her education, so she can make sure that the baby is well cared for and that the baby is protected while she grows up. In other cases, the young woman is so unstable that she just has to be separated from the baby. We will work with her from 1 year to 18 months to try to change that so the baby can live with her. If we can't, we are going to go into court, terminate her parental rights, and get the baby a new mother and father.

Mr. McDERMOTT. Do you have a particular system that says at 18 months any case that has been out there comes up and if they are not making it, that is it, you go to court?

Mr. DIGRE. Built right into your Federal law are requirements for a 6-month judicial review and 18-month——

Mr. McDERMOTT. Probation hearing.

Mr. DIGRE. Absolutely. That is reflected I think in every juvenile court statute in the country. Ours has two cutoff points. Our first cutoff is you start to make the judgment regarding do we need to give up on this person and find a new home at 12 months, and often the judges will continue that to 18 months to give the parents a chance, a second chance. But the 18-month timeline, although there are some exceptions, is pretty firm. If you don't have your act together, if you haven't stabilized your life, you are not able to safely raise your child, about 1,100 or 1,200 times a year we do terminate parental rights and free kids to be adopted.

Mr. McDERMOTT. You are nodding, Ms. Barr. Do you agree with that?

Ms. BALASCO-BARR. We are going for that. New Jersey has a unique system called voluntary placement agreement and the court is not involved. Unfortunately, we have had some cases that have languished awhile because of these informal placement agreements. But we are rapidly coming into compliance so that we can move more quickly toward permanence.

Mr. McDERMOTT. Thank you, Madam Chairman. Thank you both for your testimony.

Chairman JOHNSON. May I just clarify, Ms. Barr, something you said earlier in response to Mr. McDermott. You mentioned that you had a waiver. Did you have to get a waiver for the group home program?

Ms. BALASCO-BARR. No. You have to have an allegation of abuse or neglect in order to place a child in foster care. And we are—when you put the mother and the child together, you are not alleging necessarily that somebody has been abused or neglected but this is in the best interest for the kid. So you have to have the waiver in order to access the funding.

Chairman JOHNSON. So this is a Federal waiver?

Ms. BALASCO-BARR. Yes.

Chairman JOHNSON. OK. I wanted to bring that out. I wasn't sure that is what you were saying. But, clearly, if that is what you are saying, that is a perfect example of a need for greater flexibility, even though, in addition, Mr. McDermott's line of questioning and your comments about the judicial review do indicate the combination of oversight and flexible service patterns that we have to try to achieve if we want to improve the system.

I turn to Mr. Johnson.

Mr. JOHNSON OF TEXAS. Thank you, Madam Chairman.

Chairman JOHNSON. Excuse me, Mr. Zimmer. I am sorry. I misread my own list here. It is Mr. Zimmer's chance to inquire.

Mr. JOHNSON OF TEXAS. Sure.

Mr. **Zimmer**. Thank you. Unlike Mr. McDermott, I am not an Irishman from Chicago, so I don't know what Mr. Murphy would have said in the last round. I would like to give him some time.

Mr. **Murphy**. The Irish are known for fighting amongst themselves, probably more than any other ethnic group. Probably——

Mr. **McDermott**. They have never said anything good about each other.

Mr. **Murphy**. I think the McDermotts were the ones who were always turning in the Murphys back in—in any event, I think my answer wouldn't be that much different than Peter Digre's here, and that is that a 15-year-old kid who has a child, I don't—I think should go to school if she wants AFDC. And if she doesn't go to school, I would not give it to her. I would go one step further. I don't think I would give AFDC to anyone under 17 unless they have a high school diploma under any circumstances, and I would expect the family to step in and fill the gap, and if the family didn't, that is when the State would step in.

The reason I say this, it sounds very harsh and it is harsh, but I think we have to get the same message across to the underclass that I get across to my own children and you to your kids, and I think we patronize the poor today, whether it is an African-American population, in cities like Chicago it is a racist message. The message is we do not expect anything of you. I think the message has to be we expect the same thing of you as we do of the kid from the north shore in Chicago or from Connecticut or wherever. And that message is a tough message. But the whole message has been soft. The message to date has been anything else but that, act irresponsible, you are going to get rewarded. Act irresponsibly, we will reward you. We have got to turn it around. It will be hard for the first few years but we have got to do it. So I would do it.

I want to make one other comment. Mr. McDermott said Chicago may have bad problems, et cetera. We have an organized group of lawyers in Chicago, myself included. I am the one that went to the press in the case that Mr. Matsui talked about, and I stood up and I said, I made a mistake in that case. That case never would have come out unless there were lawyers doing it.

New York, for instance, has an organized group of lawyers representing children but they have draconian laws of confidentiality which we don't have in Illinois. Most States, the bureaucrats, the child welfare crowd hides behind laws of confidentiality, so they can stand up here and say anything they want to you.

What really goes on, if someone tries to come out and say there is a problem in the system, then everyone says we are going to sue you. I have had half a dozen—not half a dozen—I have had three or four beefs against me with the attorney registration of the disciplinary commission, from State bureaucrats and other so-called advocacy groups because I have gone to the media. This system has more confidentiality than the CIA and the FBI have. That is because it is in the child's best interest, everyone argues.

It is not. And I used to think it was because it was in the bureaucrats' best interest for you guys not to know what really goes on. But now I think the reason, the real reason we have laws of confidentiality is everyone inside the system knows how flaky the system is but really thinks it is good flakiness and doesn't want the public to know so we hide behind them. The best thing you can do is do away with the laws of confidentiality so everyone can see how bad the system is.

Mr. ZIMMER. Mr. Murphy, I am glad you brought your son here. He should be proud of his father. You are setting an example——

Mr. MURPHY. He is a very bored little boy right now.

Mr. ZIMMER. Well, I can see that. Someday maybe he will appreciate what a candid and forceful and passionate father he has got. And I want to tell you in my experience in my 4 years in Congress, you are the first public official who has ever taken responsibility for a screw up in his department or under his authority, and I want to commend you for that.

Mr. MURPHY. That is because I have only had one.

Mr. ZIMMER. Ms. Balasco-Barr, I want to commend you for the good job you are doing in one of the most challenging divisions in the State of New Jersey. I know how difficult that job has been to manage in years past. I am sorry you didn't get to go through your entire written testimony. I want to give you an opportunity to go into some detail about where you think the Federal program should be changed and exactly how we could focus on outcomes rather than procedure.

Ms. BALASCO-BARR. I believe that each of the 50 States is dramatically different and has different needs, which means that when you have an intent that is promulgated by Congress, there has to be flexibility in allowing that State to develop its child welfare plan according to the needs of that State.

The reason that we are having this hue and cry over family preservation, and it doesn't work, you know, and it does and it is all wrong and it is all right, is because each community and each State has different kinds of problems that are addressed differently. And the—the flexibility that is required is not so much the flexibility in the money but it is the flexibility in the planning.

What Congress and what the administration needs to require from States is an assurance of care, an assurance of the quality of care, an assurance that the money is being directed not into the ways in which have been sort of hinted at about people making money on child welfare, but that money flows to the lowest possible group of folks who can adequately ensure care for kids.

When we—the case plan—and I think it was Secretary Bane who said the case plan is the foundation of child welfare practice. She may not have said it like that. But if you don't have a plan, what are you doing? And that is where the structure of what we do in child welfare has to be, on the frontline worker, the training, the support, the knowing what it is that you are about the business of doing in child welfare.

Oversight doesn't do—I was getting ready to say a strange word, but—it doesn't count for nothing. It doesn't count for nothing if the training, the caseworker, the intent, the knowing what it is that the people of this country want for children and families. If we don't know that at the line level, then we are wasting a whole lot of money and putting in bureaucracy that overview, overview, overview and review. If you don't have any foot soldiers, what are you overviewing and reviewing?

And that is where the emphasis, I strongly believe, in child welfare has to be—the support, the nurturance, the caring for, the training of the child welfare workers and firstline supervisors.

It is—yes, there is a system that we call child welfare and it has advocates, it has people, it has agencies, it has whole lots of folks, but we are all supposed to be about the business of the children and families. And I think a lot of the anxiety and the discussion and the confrontation goes on because sometimes we forget to ask the people that we are supposed to be serving how can we best serve you, and we all get together in conferences and workshops and talk about those people and we haven't taken the time to ask. And maybe we could cut out some of the money if we would use a lot more common sense, a lot more good practice, and we ask the people who we are serving and we ask the caseworkers, how can we help you do a better job? It is not going to conferences.

Mr. ZIMMER. Thank you.

Chairman JOHNSON. Thank you very much. Mr. Johnson.

Mr. JOHNSON OF TEXAS. You really sure this time?

Chairman JOHNSON. Sorry about that. The angle is bad.

Mr. JOHNSON OF TEXAS. Ms. Barr, I like what you say. It seems to me you are saying that we ought to be looking after the children's welfare and not talking about welfare for children. And in so doing, you made the statement that 427 reviews are a large part of your effort in your State.

Do you know how many people are involved? I know you quoted a number, 2-plus million, nearly 3 million.

Ms. BALASCO-BARR. There are 14 staff that directly report to me who do the case reviews. But within each office, there are also case practice reviewers on top of the case review boards that come out of the judiciary system and then the judiciary review by the judges after that.

Mr. JOHNSON OF TEXAS. So you have hundreds, at least, of people that are not really directly involved with taking care of the child but involved in making sure they dot the i's and cross the t's, is that true?

Ms. BALASCO-BARR. I wouldn't try to belittle it to the i's, you know, cross the t's, but we do have a degree of oversight, that I question its effectiveness. If you have established a pattern of doing what follows the law and your outcomes give you that, then there should be relief, some relief from the oversight.

Mr. JOHNSON OF TEXAS. And I also like what you say about no two States are alike. And you know, I don't think we here in Washington can decide what is good for New Jersey and that it is certainly not the same thing for North Dakota or Texas, for that matter, or California, or Chicago, even. And I don't remember making but one mistake in my lifetime, either, Mr. Murphy. I appreciate your comment. That is all I have. Thank you, Madam Chairman.

Chairman JOHNSON. Thank you, Mr. Johnson. Mr. Gibbons.

Mr. GIBBONS. Thank you. A brief question.

Chairman JOHNSON. And welcome, Mr. Gibbons. Pleasure to have you.

Mr. GIBBONS. Thank you very much.

I am of the opinion that the child financial support system in the United States is a mess. It certainly is in my State, in Florida.

What impact would having a better child financial support system have upon the problems that we are talking about here?

Mr. HORN. If I could address that a little bit. I think that certainly we could do a lot better job in both establishing paternity and collecting child support. And it certainly is better if you are raising children to have more financial resources.

But even if we were able to wave a magic wand and collect all of the outstanding child support payments, children would still be at-risk. One of the things we know is that when children are raised in households where the father is absent and uninvolved, children are at-risk even in upper-income households. So if what we are talking about here is simply getting child support payments from these men, as opposed to encouraging and supporting their active involvement with their children, their children will still be at-risk for things like child abuse.

So if we are going to talk about child support enforcement, and we should, and if we want to improve that system, and we should, and if we want to ensure that more children have more financial resources through child support payments, and we should, at the same time, we should recognize that fathers contribute far more to their children's welfare than simply child support payments. We must, therefore, be just as aggressive at ensuring that the fathers have the ability to interact with and be involved in their children's lives.

And along those lines if I could go back to a couple questions before, it seems to me that one of the things we should have done for that 14-year-old girl is that when she was 13 have messages permeating her neighborhood that young boys should not impregnate young girls. Frequently lost in the discussion about child welfare reform is any talk about the missing fathers. We need to help men understand that impregnating women before marriage is a form of child abuse because we know that out-of-wedlock childbearing places children at-risk.

One of the things we need to understand is that we have to focus not just on the mother, the single mother, but also upon the absent adult in that picture. That is the father.

Mr. MURPHY. You know, I think I would agree with Mr. Horn. I would go one step further, and that is, for instance, the New York Times last year did a study on all kids under the age of 15 charged with murder in New York City. Of the 25 kids, 21 had no father involved at all, 2 were silent on the issue, only 2 had a father involved. To me, that is the missing thing.

I don't know if—going after them for money becomes irrelevant, because many of them don't have money, but they should be involved with their children. For instance, again in Chicago, we had a 10-year-old kid who slit the throat of an older woman recently and killed her. And everyone was saying this is a horrible thing, he should go to jail. Of course he couldn't go to jail. The question to me was not the child, but where were his parents? Because essentially he had no upbringing.

And I would—I would on a local level go for laws that said if a kid under the age of *x*—whatever it is, 14 or 15—was brought in on a charge of delinquency, I would bring the parents in and find out what their involvement was. Now, if it was a poor welfare mom that tried hard and didn't succeed, well, then there is—but if it is a father who was not involved with that guy, he is the guy that should be in the can, not the dopepeddler, because he is the guy who is responsible. I am not suggesting dopepeddlers shouldn't go to prison, but I think it is more important to get word across to fathers that we are going to put you in prison. You don't have to give them any money; what about taking him out to a ball game, just being there once in awhile? And if a father is not doing that, that is a crime. That, as Wade points out, is child abuse.

Chairman JOHNSON. There are requests for a couple of follow on questions. We will go to Mr. McDermott.

Mr. MCDERMOTT. Thank you, Madam Chairman. One of the questions I wanted to ask, because you talked about training, I would like to know what the minimal qualifications are for hiring a minimal—an entry-level worker in the child welfare system in New Jersey and California and Illinois, if you know them.

Ms. BALASCO-BARR. A bachelor's degree in a human service area, meaning education, psychology—preference is given to socialwork. And there is an incentive for a master's degree in socialwork, psychology or counseling.

Mr. MCDERMOTT. Can't get in with a history degree?

Ms. BALASCO-BARR. No.

Mr. MCDERMOTT. OK.

Mr. DIGRE. It is very similar. It is a bachelor's degree and at least 3 years of experience in socialwork and an educational program in a socialwork-related field. About 70 percent of the time, people we hire have master's degrees. Now the one exception to that is, we recruit very hard in the universities to hire fully bilingual employees, so we do have a class where we can hire trainees and put them through a special curriculum and a special entry in our department so that we have always got an adequate number of bilingual employees.

Mr. MCDERMOTT. And the starting salary?

Ms. BALASCO-BARR. I don't know.

Mr. MCDERMOTT. Range?

Ms. BALASCO-BARR. The range, I think it starts around $32,000.

Mr. DIGRE. About the same, $32,000, $33,000.

Mr. MCDERMOTT. Do you think you are representative of the United States in terms of the qualifications to get an entry-level job in a children's welfare system?

Ms. BALASCO-BARR. I think so. There might be some States that have more of a preference or are more specific about the socialwork degree. But generally we sort of clump it under human services, and then—but that is contingent on a real specific training program after hire.

Mr. DIGRE. In my experience, I believe we are considerably higher both in terms of qualifications and pay, and frankly, back to your earlier question, our turnover only runs in the 6 to 10-percent level. I think that is a direct correlation of, if people can make a living doing these jobs, they get invested in them, they stay, you just have better outcomes.

Mr. MCDERMOTT. Before you give a caseload to people, how much training do people have in New Jersey?

Ms. BALASCO-BARR. They have a minimum of 2 weeks' training before they get a caseload. And then there is a period of time in which they simply, like a shadow caseworker, they accompany a professional worker around on her caseload and then slowly are given cases. And then they come back for additional training after they have had a small caseload of around 10.

Mr. MCDERMOTT. And what—what is the average caseload in New Jersey for a caseworker once they are full?

Ms. BALASCO-BARR. It ranges between 25 and 32.

Mr. DIGRE. The training requirement is 8 weeks in our training academy, which incidentally is funded under IV–E administrative costs. We have three training academies at USC, UCLA and Cal State-Long Beach, our three schools of socialwork. And then they go into a 4-month program in training units, where they are gradually phased in.

Mr. MCDERMOTT. So it is really almost 6 months before they get——

Mr. DIGRE. Yes, exactly.

Mr. MCDERMOTT [continuing]. Actually starting to handle families?

Mr. DIGRE. They are starting to handle, but in a special training unit where they are under special supervision, where they are slowly introduced to it.

Ms. BALASCO-BARR. New Jersey has just started working with the Rutgers School of Social Work in a public child welfare training program. So I commend you—I mean, I envy you, really.

Mr. DIGRE. Our training academies were, incidentally, one of the things that caused the IV–E administrative numbers to jump up.

Mr. MCDERMOTT. I raise this issue because I think it is important for the record and the members to know the importance of training and what you start with when somebody comes in.

When I was, in the early eighties, in the State of Washington, we were taking people with history degrees. And they were getting into the department because they had good grades and whatever, and they really had no experience. You take a middle-class kid just out of college and suddenly hand them a caseload of 15 or 20 families from the inner city, most of them are sinking at sea, so deep that they don't know where they are for a long time. So that is why I think it is important that people recognize the importance of the programs that you are involved with.

Thank you very much, Madam Chair.

Chairman JOHNSON. I thank the panel.

Oh, Mr. Matsui.

Mr. MATSUI. Very briefly, both Mr. Murphy and Mr. Horn answered questions regarding the cutoff of benefits at teen level. Perhaps Mr. Digre and Ms. Barr could give me and the panel their thoughts on the issue of cutting off benefits for teens or whatever group they may be.

In addition to that, perhaps, Mr. Digre, in view of the fact you have worked with family preservation programs, and so has Ms. Barr, very briefly again both of you could answer the question about the example that Mr. Murphy gave where a child was living in a home with pets, monkeys, everything else, with a woman whose IQ was low. And again, I know it depends upon the specific facts. But what would you do in a situation like that, in terms of your programs?

Chairman JOHNSON. Before the panel answers this question, I want just to clarify that the only proposal that denies benefits to children under 18 does give them Medicaid benefits and food stamps, and requires them to live at home. So those are the dimensions of what we are talking about.

Ms. BALASCO-BARR. Governor Whitman has been asking us for several weeks our reflections, and she hasn't really come to a conclusion, but I do know of her intense involvement and interest in early intervention and prevention. And I think whatever New Jersey does, it will be a decision based on an individual case basis. It will be something that—a decision made in the best interests of children. It will not be a blanket or arbitrary denial of benefits if, in turn, it does far more damage to a child than a principle regarding if you are such and such an age and you haven't done this or that.

Mr. DIGRE. Well, if somebody is terminated from assistance and they are able to go into employment or income through a decent child support check, or be part of a broader family, and if they are able to have employment—the most important thing there is to have health insurance so you can take care of your children and all the health needs of young children—I think it would be fine.

If they end up in a situation where they don't have assistance to get the necessities of life, the juvenile court statutes will be there. And as soon as you hit the point of lack of food, clothing, shelter, the children will end up in the family preservation or foster care system.

In terms of the kind of approach we bring to family preservation, we have taken a comprehensive—packaging 23 services into 1 package, a community-based approach working with community-based agencies, everything from churches to local school districts to the boys and girls club, to mental health centers, people that really have roots in community networks.

We have required a high level of intensity. You have to visit the family as often as 16 times a month to make sure that the first priority of family preservation, child safety, is that the kids are kept safe; and we also institute 17 additional standards of child safety to make sure we are really constantly keeping an eye on the safety of the children.

So it is basically a comprehensive, community-based and very intensive approach, very intensive on the visitations.

Mr. MATSUI. Did you have a—did you want to respond? Maybe you already have responded to the family preservation issue.

Ms. BALASCO-BARR. You know, as we were leaving the table, I did have a thought, an impression, that no one that I know of—and I have been a worker and a supervisor, et cetera—voluntarily wants to say that they are abusing and neglecting their kids solely to get the benefits of family preservation. I don't believe anybody in any community, whether it is rural or inner city or suburban, wants to be labeled abusive or neglectful because of alleged services that are given, or the $300 in emergency money in the family preservation program.

The families that I have met and worked with see only the benefits of having their family strengthened by being involved in family preservation. They then become advocates for the program when they go back into their own communities, when they are in their churches, that oftentimes we are able to intervene in another family that is in crisis before they have been labeled abusive or neglectful because of the kind of value that communities have placed on the family preservation program.

I feel badly that there are some States, and in Chicago it doesn't appear to be working, but I would ask that the committee look at the places where it does work, that you do have people who don't want it to work for whatever reason. But family—for every time they tell you, yes, after 12 months there was another incident, but rather for 12 months there wasn't an incident of abuse or neglect; and then for every family that requires foster home placement and we go through reunification, we have decreased the length of time that that child has been in foster care. And that is a value that we hold.

There are no blacks and whites, and there are no this ways or that ways. All of it has to be in light of, are we really doing the best thing for kids and families?

Mr. MATSUI. I would like to thank both of you and all of you.

Chairman JOHNSON. I would like to thank the panel as well, but before I do, I want to ask one concluding question and make a comment that feeds into the conversation of the preceding 15 or 20 minutes.

Mr. Horn, in your testimony, in talking about what has caused the explosion in the caseload, you say that abuse is up to 40 times more likely to occur when the biological father is not living in the home. Then you go on from that statement to say that this should have driven a change in welfare services or affected the service network in some way and that, instead, it resulted in an enormous effort to maximize reimbursements under title IV–E, which is the administrative costs section of the program, which also is loosely allowed to fund prevention. In other words, you couldn't just address this problem of fathers; you had to go through the burden of administrative costs and all the documentation.

We all know that is a very heavy, complex program, that administrative costs section, and yet that was the only place you could go for money to address this kind of new need. Is that the right conclusion to draw from those two paragraphs of your testimony?

Mr. HORN. There is a wonderful moment in the movie "All the President's Men," in which Deep Throat says, "Follow the money"; and I think if you follow the money when it comes to child welfare, and you understand where the incentives are and where you can draw down large sums of money, you understand where it is that people have put their efforts. And where they have put a lot of effort is in maximizing claims under the title IV–E administrative costs program, because that is where the money is, that is where the incentives are.

And last year, Congress passed and appropriated money for family preservation services despite the fact that there really is no empirical evidence that it is helpful. As Mr. Murphy says, the largest study of its kind shows that family preservation doesn't hurt, doesn't help, just has a neutral effect. And yet now we are setting up a whole network of family preservation services.

What we have to do is stop telling child welfare agencies to follow the money, but rather to do what makes sense for them, consistent with the needs of their local communities. And if in that community one of those needs is to address the issue of fatherlessness, well, they should be able to do that with the money that they have available to them through Federal funding streams. And so what I recommend and what I continue to urge this committee to consider is making those funding streams much more flexible so that States can use them, given the wisdom that we hear at this table about what is good practice, and stop them from simply following the money.

Chairman JOHNSON. Thank you. And in conclusion, let me say to the witnesses, any suggestions you have for the governance language of a child welfare services block grant or for the means of accountability, we are interested in those two things. Because if we bring moneys together in a block grant, we certainly will not do it without clarifying what the uses of those moneys should be for, nor suggesting how we will know whether it got done or not.

As to the issue of the eligibility for children under 18, that is certainly a part of the welfare debate that is going on before the Human Resources Subcommittee.

I thank you, Mr. Murphy, for your insight into that problem, and all of you, for your thoughtful testimony, written and oral. Thank you very much.

On the next panel are Marcia Lowry of the American Civil Liberties Union, the Children's Rights Project; Michael Petit, the deputy director of the Child Welfare League of America; Ronald Henry, the Children's Rights Council; Brigitte Berger of Boston University, professor of sociology; Corinne Driver, National Association of Foster Care Reviewers; accompanied by Charles Cooper, Citizen Foster Care Review Board; and Karen Howze, adoptive parent.

We are going to let Karen go first since she does need to get back to work.

Sorry, Karen, that this has gone rather longer than we might have led you to believe it might, these first two panels. But it is important for the committee to have a chance to pursue their questions if we are to make good decisions in the future. So with that apology to you and to the rest of the panel, would you please proceed.

Ms. HOWZE. Sure.

STATEMENT OF KAREN AILEEN HOWZE, ADOPTIVE PARENT, WASHINGTON, D.C.

Ms. HOWZE. My children are products of the foster care system in the District of Columbia. My children receive an adoption subsidy each month, and that amount is equal to the amount that their foster parents received when they were in the care of the District of Columbia.

I adopted Charlene and Karie 10 years ago. I was given very little information about their backgrounds and their parents. I was simply told that the parents were "perennial homeless people," with no known history of drug abuse or alcohol abuse.

I think we all know now that perennial homelessness is a deeper problem than just people wandering the streets. In fact, it over the years became very clear to me that there was, in fact, drug involvement by the mother, though it was not street drugs; it was her need to take psychotropic medications because of her mental illness, and the assumption is that she was indeed taking those medications during her pregnancies.

By the time my children were ready for school, it was obvious that there were some very serious problems that were directly attributable at least to the mother's condition and possibly to the father's, who was diagnosed as schizophrenic.

My children were not nurtured in foster care, which exacerbated the situation. One of the things that they had to contend with was a hypersensitivity to touch, which meant that if you touched them or got close to them it felt as though there was a hot poker being run across their skin.

They have serious difficulties processing language and using it. Karie was nonverbal until the age of 6. At the age of 6, Charlene, who is the oldest, one day said to me that she didn't know what was wrong, but she just felt sad. That was 1986, and since then Karie has learned how to speak; she is now 11. By the time she started first grade, though, she was on the road to autism because of the level of nonservice that she had received in the public school system.

Four years ago, Gloria was placed with us. She is a sibling of the other two girls. She has a different father but the same mother. Gloria was caught up in the District of Columbia's lack of compliance with Federal guidelines and standards and lived in foster care and was reunited with her mentally retarded mother over a 5-year period. In that course of time, she was sexually abused by both her mother and by the foster care provider, who is the same provider who cared for the other two girls when they were in foster care. Learning about Gloria's past helped me also understand Charlene's.

Today Charlene, and I mean today, this afternoon, is why I have to leave at 2 o'clock; she is an inpatient at the Psychiatric Institute of Washington. She has been diagnosed as bipolar, or having manic depressive disorder. This child is 12 years old and it is very difficult for a 12 year old to understand what is happening to her body. The end result is these are my children, but without adoption subsidy, which comes to approximately $440 a month, which is not a lot of money—if I did not have that as a resource plus the medical assistance all in one package where I did not have to run around and try to touch base with all the entitlements, I probably would have had to turn my children back in, despite the love that I have for them.

Four years ago, I left my job as an executive with the Gannett Co.; I had been a founding editor of USA Today. I left that job because I could no longer travel and find adequate care that could meet the needs of my children when I was on the road, regardless of how much I was willing to pay.

Today, I kind of piece together whatever I can do to pay my mortgage and pay transportation and food costs and save enough aside to pay for the constant therapy that the children need.

The one thing that I would like to say to the committee is that this entitlement program, unlike a lot of the other things that are going to be discussed here and in the future, is one that was designed for the children. Many people within the social service arena believe that the parents who are receiving adoption subsidy are money-grabbing people who just want to be paid to care for these children; and of the 50,000, I can probably only imagine maybe 2 who would be in that category.

You lose everything when you suddenly find out 5 years after you have made a commitment to a child that that child is not the child or the children that you thought you were going to have. My children may never be independent. My middle daughter, Karie, will never be able to read or write with facility. She tries very hard, but she is almost functionally retarded. Gloria has the beginnings of multiple personality kind of issues that we have not begun to deal with because it is too soon, it has only been 3 years.

Without the little bit of help and the security of that help, I would probably be among those who would say to social services, please come get them, I cannot care for them to the best that they need to be cared for.

Now, since leaving my job, I now place all of my frustration about this system—and in my attempt to really understand it, because it is extremely complex, as the other panels discussed and I am sure we will hear today. I now represent children who are in foster care as an attorney, similar to Mr. Riley.

Is that his name? Murphy. Some Irish something. They all look alike, right? Similar to Mr. Murphy in Chicago on a different kind of panel approach.

What I would say to you is, I am primarily a children's attorney, though periodically I represent parents. The children on my caseload, my goal is to get them into families. This money helps, because the children I represent are just like my kids.

Children who come into the child welfare system came there because something went wrong, whether it is internal or external, and those things that go wrong don't go away. And somewhere in society there has to be a responsibility to assist in paying for it.

I will tell you in the District of Columbia—not necessarily New Jersey, not necessarily Oregon, but I think Ms. Balasco named only 5 States that seem to be paragons of good socialwork; there are 45 others, and those 45 would take the money out of this program and the foster care assistance programs and use it to hire a socialworker who would only help probably to exacerbate the kind of problems that my children experienced and will continue to experience the rest of their lives.

I thank you. The yellow light is on and I made a vow not to hit the red light. If you have any questions——

[The prepared statement and attachment follow:]

STATEMENT
OF
KAREN AILEEN HOWZE

BEFORE THE
SUBCOMMITTEE ON OVERSIGHT
JANUARY 23, 1995

My name is Karen Aileen Howze, and I am a single adoptive parent of three daughters -- Charlene, Karie, and Gloria. My children receive an adoption subsidy each month that is equal to the amount their foster parents received when they were wards of the District of Columbia.

I adopted Charlene and Karie ten years ago. I was given little information about their parents. I was told the parents are "perennial" homeless people with no known history of drug or alcohol abuse. Little was known about homelessness at the time. And no one told me that both parents were severely mentally ill, and that the mother had been taking psychotropic drugs prescribed for her mental illness -- probably throughout her pregnancies.

By the time the children were ready for school, it was obvious that there were problems that were directly attributable to their parents and their early days in foster care. My children were not nurtured. They had a sensitivity to touch that can only be described as the sensation a burning poker would leave on one's skin. They have difficulties processing language and using it. Charlene taught herself to read in kindergarten, but she couldn't stand in line with the other children without bumping into them and disrupting the all important line process. She never cried. She was depressed. And at age six, as I was putting her to bed, she looked at me and said, "Mommy, I'm sad."

Karie, on the other hand, did not speak. By the time she was to start first grade, she began to present signs of autism. She could not function in crowds, and large spaces made her extremely irritable or withdrawn. She is learning to read, but will never be facile with reading or writing.

Four years ago, Gloria was placed with us. She has the same mother as the other two, but a different father. She experienced abuse during her early life that included molestation by her mother and foster mother. She has serious emotional issues that we are dealing with on a daily basis.

It is clear they have challenges that will be with them for the rest of their lives. But, they are loving, caring children who have a respect for themselves and for others. But all of this does not change the reality of rearing them appropriately.

Today, my oldest daughter Charlene is in a local psychiatric hospital. Last June, at age 13, she was diagnosed as manic depressive, the illness that plagues her mother. She has a condition that she will be faced with for the rest of her life. She will need counseling and constant monitoring of her medications. She must be taught at this early age how to tell whether the medicines are working before her behavior deteriorates. This is a lot to ask of a 12-year old. And it is a lot to ask of a parent who volunteered to love and care for children who had no one, unaware of the level of problems these children face.

My friends often wonder how I am able to handle these extraordinary stresses of parenting special children. I have had to leave a career as an executive with the Gannett Co. Inc., to care more effectively for my children. At the age of 40, I had to change my profession and cut in half my earning power, go through bankruptcy, and start again -- all for the love of my children.

Without the four hundred and forty dollars I receive each month for each children and the medical insurance that is part of the package, I would not have made it through various periods of the past five years. I might have had to dissolve the adoption despite my love for my children. The combinations of problems that my children have make for a household that is frequently manic and probably would be considered classically dysfunctional. I frequently feel so overwhelmed that I think it might be better for the kids if they were returned to the child welfare system. I receive great peace knowing that I am not the only parent who has these thoughts. And I am grateful that I have had the support of family, friends, and the financial support to meet some of their special needs through the adoption subsidy program.

With the program, I have at least eliminated the first reason that many parents give for returning children to the child welfare system, not enough financial resources to meet their needs. As an adoptive parent with special needs kids who is also now a lawyer to children who are in foster care in the District of Columbia, I know that if local jurisdictions are given the chance to decide where the money will go, the choice will be for social workers or support services to maintain the child welfare system. I know, and you have heard from others, that the financial support earmarked for special needs adopted children saves the system financially in the end by promoting permanency for the children. I ask you to consider the parents' side of this equation: the subsidy program provides the support for the children whose life history or life condition make it clear that love will never be enough.

I am attaching to my testimony some information prepared by the North American Council on Adoptable Children, who assisted me in the preparation of my testimony.

North American Council on Adoptable Children
970 Raymond Avenue, Suite 106, St. Paul, Minnesota 55114-1149 • 612-644-3036 • Fax 612-644-9848

With its enactment of The Adoption Assistance and Child Welfare Act of 1980 (Public Law 96-272) nearly fifteen years ago, the United States Congress began to promote the adoption of special needs children in out-of-home care by providing federal reimbursement for adoption assistance payments made to the families adopting them. Under 96-272, states are required to establish adoption assistance programs that provide monthly maintenance payments, Medicaid coverage, selected social services, and reimbursement for nonrecurring adoption costs to families adopting eligible children.

The North American Council on Adoptable Children (NACAC), through the support of the W.K. Kellogg Foundation, undertook this study to: (a) assess the general effectiveness of adoption assistance programs around the country; (b) construct profiles of children and families receiving assistance, as well as the types and sufficiency of benefits made available to them; (c) analyze the impacts that various systemic policies and practices have on the distribution of these benefits; and (d) highlight dominant trends and areas of major programmatic concern among assistance providers and recipients.

To address the objectives described above, input was solicited from state-level adoption administrators and policymakers, front-line adoption workers, and adoptive families in twenty states, including: Arizona, California, Colorado, the District of Columbia, Illinois, Indiana, Kansas, Louisiana, Massachusetts, Michigan, Minnesota, Mississippi, Montana, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Texas, and Washington. In total, 27 administrators/policymakers (i.e., state adoption supervisors, state legislators, budget analysts, etc.), 140 workers (seven--five public and two private--per state), and 532 families (responsible for finalizing 753 *domestic* adoptive placements through licensed public or private agencies *after 1990*) provided information via telephone interview and/or written survey instrument.

BASIC FINDINGS

In compiling the responses of these stakeholders, it was revealed that:

1. *Adoption assistance programs (AAP) are critical in promoting permanency for special needs children.*

While some respondents questioned specific provisions or practices within their state's adoption assistance programs, there was virtually unanimous agreement that payments and services provided through them are critical in finding permanent homes for large numbers of vulnerable children. In general, interviewees confirmed that adoption assistance programs are acomplishing what they were set up to do--that is, facilitating the permanent placement of children who otherwise might remain unadopted.

Respondents repeatedly indicated that benefits provided through adoption assistance agreements are crucial to the long-term "health" of children and families involved. The statements below--the first two from state adoption supervisors, the third from a veteran adoption worker, and the last, most tellingly, from a letter written by an adoptive parent--typify comments made regarding the vital nature of these benefits:

> • "There is no doubt that adoption assistance increases the number of special needs adoptions that occur. There are kids out there who simply won't be adopted without assistance. . . . Needless to say, money used for these benefits is money exceedingly well-spent. Adoption assistance is one of the few areas in child welfare where dollars spent actually make a concrete difference in children's lives."
>
> • "Adoption assistance expenditures are absolutely essential. . . . Waiting kids are the neediest children in our entire society. We as policymakers can't pretend to say that we support the 'family unit' if we don't provide assistance to these kids."
>
> • "Adoption assistance is a God-send. I've been a worker for over fifteen years, and there is no comparison between the number and types of adoptions that are completed now and those that were done when I started. So many families have benefited from the program. I can't imagine what would happen to families if they had to do without these benefits."
>
> • "I am the father of twelve children, four born to me and eight adopted. My adopted children all have special needs. Their disabilities range in severity from a daughter who was born missing her right hand to a son who has Hanhart's Syndrome--congenital absence of one leg, both hands, and his lower jaw. Others of my children are physically able but emotionally disturbed.
>
> I want to tell you about one of my children because I think it is essential that you have some sense of what it is like to parent a special needs child and, more specifically, to give you some insight regarding the critical importance of adoption subsidies to adoptive families.
>
> Peter (not his real name) is fourteen. He was originally adopted at age three by parents in Los Angeles. After one year of a difficult placement, his adoptive mother burned him with boiling water. He went to the hospital, she went to jail. He never saw her again. He was sexually abused during his recuperation in the hospital. After that he lived in two separate foster homes before joining our family.
>
> Peter suffers from post traumatic stress syndrome, attention deficit disorder with hyperactivity, and serious learning disabilities. Until he began aggressive chemical treatment by a neuropsychiatrist, his behavior was leading him straight for residential treatment and quite possibly the criminal justice system.
>
> Life with Peter is agonizing and painful. It can also be satisfying and rewarding. To say that it is a severe test of our parenting skills is an understatement. We never know from day to day or moment to moment whether he will be threatening one of his siblings with a knife, or sitting quietly playing with Legos; on the roof urinating on the first unsuspecting soul to leave the

> house, or reading a book on John F. Kennedy (a favorite of his); holding a playmate's head under water, trying to drown him, or neatly organizing his belongings in his room in his peculiar compulsive way; or running away and wandering all over town with God knows whom.
>
> When his medication is effective, and lately--thank goodness-- it is more often than not, he can really focus and attend. On those days or during those hours we can see his potential for achieving a normal life.
>
> The expenses associated with our and Peter's accomplishments have been enormous. The costs of psychiatric care, numerous psychological evaluations, ongoing therapy sessions, special educational placements, and medicines are a measurable drain on our financial resources. More difficult to measure are the emotional costs of our fear, concern, and anxiety. The costs of alienated relationships (neighbors, friends, and relatives) are similarly unmeasurable but equally great. However, I can assure you that all of these expenses have been substantial.
>
> The adoption subsidy we receive for Peter is a tremendous resource which goes a long way in alleviating the financial strain of caring for him and in procuring the professional assistance he needs. It also gives us the resources necessary to provide a foundation for his life and to strengthen our family structure. Most importantly, it allows us the means to continue our commitment to him and to all our children so that they may grow up safely in a permanent and loving home. With adoption assistance, there is hope for Peter's future, and that's really the bottom line.

In addition to affirming the overall effectiveness of adoption assistance as a permanency incentive, most respondents--particularly those at the administrative or policymaking level--were firm in their belief that adoption assistance programs are an efficient outlet for child welfare dollars. As voiced by one state supervisor, "The adoption assistance program is the best 'bargain' in the entire child welfare realm...We're getting more for our dollars here than in any of our other programs for kids." This is not to say that all interviewees were completely satisfied with the workings of their own, or others', programs. As several emphasized, "We must tighten some things up in certain areas...The subsidy program is not a 'cure-all' for all bad fits. It is merely a safety net."

Nevertheless, and despite these caveats, when specifically asked about the "proper" prioritization of adoption assistance programs within the broader child welfare arena, respondents were quick to stress the importance of subsidized adoption. Ensuing discussions generally focused on the comparative merits and/or drawbacks of providing additional (or fewer) resources at the "front" (family reunification and preservation services) and "back" (adoption services) ends of the service delivery spectrum. Participants agreed that allocating sufficient resources at both ends of the spectrum remains critical for children and families, but *none* advocated for reducing adoption assistance funding in order to bolster front-end services. "Don't get me wrong--family preservation services are definitely needed. We might even be 'short-changing' families a little bit in this area right now. But adoption assistance is very important, and it should not be cut in any way. There will always be a group of kids for whom adoption is the most appropriate permanency option who desperately need adoption assistance benefits."

Chairman JOHNSON. Thank you very much.

Are there questions of Mrs. Howze?

Mr. McDermott.

Mr. McDERMOTT. How much trouble do you have in getting services for your kids?

Ms. HOWZE. Well, that is another issue. What I found in this community and through networking with other parents who have special-needs kids, we are—our needs are further ahead than the helping psychiatrists, psychologists.

So often we are coming to them and saying, I see this, and they can't figure out what it is. We may have a sense of what it is, but it is all touch and go. In fact, a number of people I know personally, the therapists have said to them, why don't you just turn them back in, it is too much probably for you to handle. So there isn't really a network out there for people who come in this—with this I-am-going-to-help attitude, and then find out that there are very serious emotional and physical difficulties with the children that says, oh, we will be a part of your process.

Instead, it is sort of like, well, you volunteered, just go on and unvolunteer. And that is not unusual.

That is not part of the normal child welfare where you go for social services. It is the rest of the community.

So that is a very good question. It is very difficult to find services.

Mr. McDERMOTT. Well, I was really driving at a more specific point, and that is, you have Medicaid coverage for these children under the special needs program?

Ms. HOWZE. Right. And my agreement also allows—they have changed the way that they are doing it now, but because there were so many uncertainties and because I am a smart person, I asked that they leave some wiggle room. So when I don't—when I first go to Medicaid providers and when they are not working in the best interests of my children, then I will find people in the community who will let me pay after reimbursement from the District of Columbia.

There have been times when the District of Columbia has refused to reimburse. For example, my middle child has no tongue muscle, so her speech is affected by that. She needed braces to reshape her mouth. We still haven't gotten the braces, though she gets lots of speech therapy, because DHS decided that they didn't think that was an appropriate expense.

So it is a dicey situation that parents are in, and you have to pick and choose what is most important. I have had to choose between focusing on my bipolar child because of the seriousness of that and the level of medication, and hold off on the other two in terms of their needs; and I don't think anybody should ever be placed in that situation, regardless of where the children came from.

Mr. McDERMOTT. Are the costs for your child being in the mental hospital, are those going to be covered under Medicaid?

Ms. HOWZE. Those are covered completely under Medicaid, and that is another very good issue. Because if I—I don't have health insurance because I left my job. But if I did, she would not be able to go in the way she has been able to go in the last 2 years.

Mr. McDERMOTT. Thank you.

Ms. HOWZE. Now, I would like to say, I will guarantee the U.S. Government and every taxpayer that my daughter will not be walking around the streets lying on a grate somewhere. That is what this is for. It is the preventiveness that keeps us from having major adult problems down the line, and that is what adoptive parents attempt to offer to their children.

Mr. McDERMOTT. We are grateful for people like you who will do the kinds of things you are doing. Thank you.

Ms. HOWZE. Thank you.

Chairman JOHNSON. As you work with the system, is there any focus on, as there is with people over 65, you know, the costs of keeping people out of nursing homes versus in nursing homes? Is there any support for perhaps more generous services or supplements in addition to Medicaid, recognizing that if you didn't have these kids, they would almost certainly be institutionalized?

Ms. HOWZE. No. Because I think one of the things that has happened, and probably was happening before the passage of the Public Law, is that the State or local jurisdiction is so bound with their budget vagaries. So, for example, the District of Columbia is in a major, major problem right now.

I happen to have a client who is about to be adopted who is CP, G–2, blind, deaf, the whole bit. It has taken 9 months to try to negotiate a rate of payment for the care giver who wants to keep this boy for as long as he lives. That is the kind of playing with people's lives that occurs, that is based on fiscal and not on the needs of the child.

Chairman JOHNSON. Thank you very much. Thank you for your good testimony. Thank you for your contribution to the lives of these children and to the strength of our society.

Ms. HOWZE. Well, any time.

Chairman JOHNSON. Thank you very much.

Marcia Lowry.

STATEMENT OF MARCIA ROBINSON LOWRY, DIRECTOR, CHILDREN'S RIGHTS PROJECT, AMERICAN CIVIL LIBERTIES UNION

Ms. LOWRY. Good afternoon. I am very glad to have the opportunity to talk to you. Coming at the——

Mr. McDERMOTT. Use the microphone, please.

Ms. LOWRY. Coming at the end of a morning of very interesting testimony makes it hard to kind of restrain myself to what I originally started out to say, because there have been so many interesting and important ideas here. And certainly the first speaker on this—can you hear me?

Mr. McDERMOTT. Madam Chairman, your remarks will be in the record, so if there are other things you have heard, I hope that you will carry on so it is a real discussion here.

Ms. LOWRY. I am going to do my best. And certainly the last speaker illustrates a very important point, which is there are in fact extraordinary human beings in this country who are willing to give homes to children in serious trouble and willing to stick with them. And many children who have been in our foster care system are very, very damaged by that experience in itself.

The government spends a lot of money to produce children who are very, very fortunate to find a woman like Ms. Howze, who is prepared to take these children in and make a commitment to them.

We were earlier hearing a little bit about children having children, and let me just say I am—I am an attorney. I represent children in class action lawsuits against State and county child welfare agencies for falling below even what I consider to be the fairly broad standards of Federal law. And one young man, who was in foster care from the time he was 13 months old and is now 28 years old, said to me at one point, when he was getting married, and I said, "You know, maybe you ought to think about postponing having children for awhile"; he said, "I never had a family, I want to have my own family, I want to create my own family." But he had been in foster care his whole life, and although he was able to father children, he wasn't able to raise them. And his children are now in foster care as well.

The points that I really want to make today, that I have heard a little less about, are three:

There must be specific Federal standards in whatever Federal legislation governs the provision of money to the States. There are standards now in title IV–E. They are minimal standards. If we really wanted to have good child welfare systems, we would have more specific standards; and we could do that without taking away from the States, flexibility about how they administer child welfare services. But from the standpoint of these children and particularly from the standpoint of someone who has looked at many of these State child welfare systems, it will be a disaster, in my view, for these kids and for the use of government money if we take away what we have already got in terms of standards.

You heard something today about training for workers. You heard about caseloads. You heard about supervision. You didn't hear about quality assurance, but that is a big issue in the States. None of those things are required in the Federal statute now, and I am not here today to ask you to put them in. But what I am saying is, if you are really looking at quality services, those kinds of things are minimal things to do.

What you have now is a requirement for case plans, you have a requirement to move toward permanence. What you have is some very minimal standards with regard to placements. Without telling the States how to run their systems, I can't believe that anyone would say it is possible to provide decent services for children when you have 150 kids on your caseload. You can't do it.

During trial on the lawsuit against the D.C. child welfare system, we heard testimony from workers who said, when we asked them whether they made case plans, they laughed. They said all I am trying to do is get through my day without a child dying on my caseload. Now that was the right choice for the worker, but if we are serious about trying to get permanence for kids, the workers have to have caseloads and training that enables them to do what we want in the Federal statute. But most importantly, we have to have some general standards that are enforceable and about which there is oversight exercised.

And I really emphasize, I am not trying to come out on the other side of the question of whether the States should have flexibility. They should. They should decide what programs work best to get permanence for kids. But they have got to get permanence for kids or we will be back to where we were prior to 1980 when we had Federal funds go to the States under a statute, title IV-A, that basically did not set any standards at all.

Second, I believe that there has to be some Federal oversight. I do not believe that the 427 audits were effective and I don't believe that they did a good job. That doesn't mean that there can't be good, competent Federal oversight that will really tell us what is happening in the States without being incredibly burdensome.

And finally, whatever standards we have in Federal law must be legally enforceable, so that when the Federal oversight falls back, as it unfortunately has over the last 14 years, and when the States are not meeting the Federal standards, the children have some rights to hold the States accountable themselves.

Thank you.

[The prepared statement follows:]

TESTIMONY OF MARCIA ROBINSON LOWRY
AMERICAN CIVIL LIBERTIES UNION

My name is Marcia Robinson Lowry and I am the director of the Children's Rights Project of the American Civil Liberties Union. I'm very grateful for the opportunity to present testimony today to this subcommittee on this important issue.

Ever since the Adoption Assistance and Child Welfare Act (Public Law 96-272) became law in 1980, we have been bringing lawsuits against state and county child welfare systems for violating the minimal standards that are contained in that federal legislation. We represent tens of thousands of abused and neglected children in city and state child welfare systems around the country.

Foster care systems established and funded to serve children are failing, producing only more damaged graduates who will go on to produce new generations of damaged children, who will continue to lead unspeakably tragic lives and who will increasingly tax our public resources.

In 1980, Congress passed good legislation intended to protect children and to ensure that the billions of dollars spent in state child welfare systems was used as the opportunity to help and to protect these children, to intervene in their lives so they could have a decent childhood and the opportunity to grow up into healthy and productive adults.

For the most part, this legislation has been neither monitored nor enforced, and in many instances these huge amounts of federal money have not been used by the states to achieve the goals that Congress intended.

The protections included in this legislation need to be strengthened and enforced, not eliminated. The federal government certainly needs to do a far better job in its oversight of the $3.5 billion dollars in federal funds expended in 1994 for foster care services. It cannot leave these programs unmonitored.

Even with the standards contained in Public Law 96-272, the states have not done a very good job. If Congress eliminates those standards, by providing child welfare funds to the states in a block grant, and if it eliminates federal oversight of federally funded programs for abused, neglected and dependent children, by eliminating "427 reviews," these children are certain to be damaged even further. The consequences are truly unthinkable.

The issues being considered by this subcommittee today are critically important to the most desperate and vulnerable children in this country.

> The almost 450,000 children in federally funded foster care, a number which has increased 62% in the last ten years.
>
> The almost 3 million children reported for abuse or neglect in 1992, a 130% increase in the last ten years.

These numbers reflect the heart wrenching stories of countless children whose care at the hands of their government caretakers has often not met even minimal standards.

> In Milwaukee, 10-year-old Alan talks matter-of-factly of his current foster family being recruited by his aunt distributing flyers in the neighborhood that say, "I'm a little boy. I like soccer. What I really need is a mom and a dad." Alan entered foster care when he was five. His mother abandoned him, and has a history of drug abuse and imprisonment. He has been in five different foster placements, and two unsuccessful returns to his mother, during at least one of which he was abused by his mother's boyfriend. He has been in at least eight different schools. His aunt, who could not care for him herself, advertised for a home for Alan after the child had remained in a temporary shelter for 11 months, and her phone calls to the child welfare agency had not been returned.
>
> In Philadelphia, a mildly retarded child who had been in foster care for his entire nine years, was taken out of the state by his fourth set of foster parents without his worker's knowledge because the worker had not visited the foster family for over a year and didn't know of their plans to move. His whereabouts were discovered in another state, after he arrived at school with observable bruises. Local police found that the foster parents were controlling his behavior by tying him to a tree.

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While we must allow the states to have flexibility in designing and administering their child welfare programs, and in deciding how to meet the standards contained in federal law, we simply cannot assume the states will provide adequate protection to children in the absence of enforceable federal standards and some form of federal monitoring and oversight. This is not an issue of trust, it is an issue of verifying whether the states are, indeed, using federal money to meet certain basic and generally accepted standards. We must remember that these children are more voiceless and powerless than any group in our country, and that if Congress takes away the minimal protections provided by federal law, they will have none.

This subcommittee is addressing the questions of whether the federal reviews required by Section 427 of the Adoption Assistance Act have resulted in better services, and whether block granting federal child welfare services and foster care programs will improve services to children. Since state foster care systems remain so damaging, despite the enactment of Public Law 96-272 14 years ago, it may be tempting to simply try something different. Instead, however, I urge you to make good on the promises of that law, and to take steps to ensure, for the first time, that it is actually enforced.

There are three basic points that must be made:

I. CONGRESS MUST CONTINUE TO IMPOSE MINIMAL STANDARDS NOW CONTAINED IN FEDERAL LEGISLATION FOR CHILD PROTECTION AND CHILD WELFARE SERVICES AS A CONDITION OF FEDERAL FUNDING TO THE STATES.

States are entitled to make their own choices about precisely how to care for their abused and neglected children, but the federal government must be a partner in this process if children are to be protected. Congress is both entitled and obligated to impose these minimal standards because it pays a large share of the costs. It is both necessary and appropriate for Congress to set basic standards on how this money should be spent, and on what general public policy goals it wishes to further.

A consensus exists within the child welfare community, including standard-setting organizations, public administrators, and advocates, about minimal child welfare services and practices that should exist within every child welfare program:

- child welfare agencies must protect children they know to be at risk of harm from abuse or neglect: child welfare agencies must respond promptly to reports of suspected abuse and neglect and must provide services to protect children who are the subjects of such reports from harm.

- child welfare agencies must try to keep families together so long as the child can remain safely in the home: before removing a child from his or her home, child welfare agencies must first attempt to provide services to the child and family in an effort to preserve the family, so long as the child can remain safely in the home.

- child welfare agencies must try to minimize the time children remain in foster care: for those children who do enter government foster care custody, child welfare agencies must provide case planning and services that are geared towards allowing children to return home as quickly as possible or, if that is not possible or appropriate, allowing children to be adopted.

- child welfare agencies must care for children while they remain in foster care: recognizing that most children who enter foster care are already damaged from abuse and neglect and thus often need intensive services, child welfare agencies must provide services to children in foster care -- including medical services, stable and appropriate placements, educational services, psychological services, and counseling -- that are appropriate to their needs and that will assure that their experience in foster care is a healthy one.

- children are damaged by protracted stays in foster care: while many children need to enter foster care to assure their safety, it is widely recognized that lengthy stays in government custody can be very damaging for them. And in this respect it is essential to understand that for

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children time has different dimensions than for adults: a year in the life of a child can be an extraordinarily long time. Indeed, for an infant or toddler, the passage of months without a stable and permanent caretaker can be permanently damaging. It is critical that child welfare agencies move urgently to restore permanence to the lives of children in foster care.

In fact, these practices are currently mandated by the Adoption Assistance and Child Welfare Act of 1980, which Congress passed in response to concerns about children drifting for years in state foster care systems. Though the statute imposes only minimal substantive obligations on states that choose to receive substantial federal funds to support their foster-care systems, it does require that states provide planning and services to children in an effort to shorten their stay in foster care and to protect children while they remain in foster care.

The current provisions in the Adoption Assistance Act, Title IV-E of the Social Security Act, set basic standards for child welfare services without proscribing how a state should meet those standards.

For example, the law requires that each child have a written case plan that describes the reasons for the child's removal from his/her home and the appropriateness of the child's placement.

each child have a case plan for assuring proper care and the provision of services.

services be directed toward facilitating either the return of the child to his/her parents, or the child's adoption, so that if at all possible, the child be raised in a family and not in government custody.

the child's case plan assures that the child receives proper care for as long as the child remains in foster care.

that the states develop programs to try to keep children out of foster care whenever possible.

that homes or institutions in which children are placed be reasonably in accord with standards recommended by national organizations.

that the status of children in foster care be reviewed periodically in state proceedings to determine their future status.

These standards are neither overly prescriptive, nor are they utopian. Indeed, from the standpoint of protecting children, even more specific standards would be far better. No standards at all, or standards that are unenforceable, would be disastrous.

Nothing in this statute tells the states how to meet the broad standards in the statute, or what kinds of services or programs should be provided to do so. Eliminating these standards by block granting federal funds will deprive children of all protections.

The problem with the statute is not that it imposes burdens on the states or interferes with the provision of effective services, but that it is simply not being followed. But these protections must remain in place, for a number of reasons.

These protections set guidelines for the states which have some influence on state policy. The protections in federal law provide the standards on which federal oversight efforts must be based. And the protections in federal law provide a basis for advocates to hold the states accountable in the most egregious situations.

At the end of the 1970s, Title IV-A of the Social Security Act, which contained virtually no standards or protections for children, governed the provision of federal funds to state child welfare systems. There were at least 500,000 children in custody at that time, and general agreement that foster care

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was no more than a custodial system. The legislative history supporting the enactment of Public Law 96-272 clearly expressed Congressional concern about the lack of federal monitoring of the use of federal child welfare funds. In passing the act in 1980, Congress noted that the federal funds provided under Title IV-A had not been used by the states to "move children out of foster care and into more permanent arrangements by reunifying them with their own families when this is feasible, or by placing them in adoptive homes," and that "there were significant weaknesses in program management which had adverse effects on the types of care and services provided to foster children."

Prior to the passage of this federal statute, children in foster care often had no chance at all to ever leave government custody. Adoption was something usually reserved for infants. If it did not take place within the first several months of a child's life, the child was considered unadoptable. A few examples:

> Carlos entered foster care when he was 13 months old. He lived in an institutional nursery for several years, a series of foster homes and institutions. When he expressed grief over his father's death, he was committed to a state mental hospital. When he turned 16, he was imprisoned for an altercation with a child care institution security guard. He is now 28, lives on the street, and has two children in foster care. There was nothing extraordinary about his case and nothing that happened to him violated the legal standards applicable prior to the passage of Public Law 96-272.
>
> Susie, two, and Donnie, three, were discovered in a closet, where their mother had left them because they had misbehaved. Despite their early neglect, they were still in relatively good psychological shape. They spent their next 13 years in foster care, where Donnie listened on the other side of a closed door while Susie was repeatedly sexually abused by one of their temporary foster parents.

After Public Law 96-272 was enacted, there were some limited improvements in state systems. For example, much more serious attention was paid to developing services to families to prevent abuse and neglect, and to avoiding the need for foster care; to getting children adopted, and to moving children from large, expensive custodial institutions into more family-like settings. State agencies, many of which had previously had conducted almost no planning for children once they entered state custody, became aware of the need to develop written case plans for children and, through those plans, became increasingly aware of the need to set goals and determine the steps to accomplish those goals for children. Within the first several years of implementation, the national foster care population dropped to 270,000 children.

However, these advances were short-lived, for several reasons unrelated to the statute itself but at least partly related to its enforcement.

States soon learned that the federal enforcement mechanism provided in the statute, the 427 review as it was developed by the federal Department of Health and Human Services, was not, in fact, a rigorous, thoughtful monitoring mechanism. Very few states failed these reviews -- indeed, advocates quickly learned that any state that failed a federal 427 review had a system in which children's lives were in jeopardy, to say nothing of their emotional well-being. One reason for this might have been that the only sanction provided by the 427 review to process was the denial of federal funding, a draconian sanction to impose on a child welfare system already unable to provide minimally adequate services to children. And then, in 1989, Congress suspended the availability of the federal funding cut-off, providing no sanctions at all for failing a federal 427 review.

It seems very reasonable to conclude that the failure of the federal government to either conduct meaningful reviews or to enforce the requirements of the federal law made it clear to the states that there would be no consequences -- at least at the federal level -- to their failure to comply with the law.

In addition, however, other factors were at work. State systems in need of widespread reform if they were to meet the minimal goals of the federal statute had barely had time to start developing their own approaches when

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circumstances changed. The number of reports of suspected abuse and neglect exploded, with a 130% increase from 1984 to present; an explosion related both to greater public awareness and better reporting procedures but also correlated closely with drug abuse, homelessness, and other serious social dislocations that have devastating consequences for children and their families. Second, children began entering foster care at a younger age, staying longer, and manifesting increasingly serious problems -- related in part to increased drug abuse by women -- problems that make it that much more challenging to treat these children and find them permanent homes. Finally, there have been substantial reductions in state and local support for social service systems, reductions that have robbed child welfare agencies of critically needed staff and service resources.

Given these forces, and the lack of federal effort to ensure implementation and enforcement, it should be no surprise that foster care systems are failing. However, it would be wrong to conclude that the Adoption Assistance Act has contributed to that failure. Rather, these systems are failing despite the statute's protections and despite the considerable federal resources that the statute provides.

A consensus exists in the child advocacy community about the importance of legally enforceable protections for children in foster care. This consensus is based on a number of factors:

- Children in foster care have no say in the political process. Children in foster care can't vote, usually have no way of communicating with anyone (much less with their elected representatives), and don't have fancy lobbyists or influential PAC's. Indeed, our citizens who are in foster care -- abused and neglected children -- are probably the most politically helpless group in our society. Because of this, it is essential that they have guarantees of minimal care and protection that can be legally enforced.

- Foster care systems are cloaked in secrecy that often is used to conceal illegal and unconscionable practices. Every state in the country cloaks its foster care system in secrecy, prohibiting the disclosure of any information about children's experiences in foster care. Though these statutes often were enacted to protect children, they routinely are used by state officials to conceal illegal and unconscionable practices. Given this secrecy, it is essential that there be the type of external oversight of these systems that legally enforceable protections provide. Indeed, it has only been through litigation that many of the worst foster care practices have been exposed.

- Children in foster care are in government custody. Every child who is in foster care is in government custody. Our society long has recognized that when the government takes custody of an individual, there must be basic legal protections to assure that that custody is not inappropriate or abusive. Given the serious problems that pervade many state foster care systems, it is particularly important that children in foster care have such legal protections.

In light of these considerations, it is absolutely essential that Congress assure that children in foster care have minimum protections that are legally enforceable. And given the consensus within the child welfare community, it is clear that those legally enforceable protections should at least include the standards currently contained in federal law, which could be eliminated if foster care funds were block granted.

It is impossible to say whether child welfare systems now operate in a way that is more harmful to children than the systems that Public Law 96-272 was designed to improve. It is fair to say that many are not meeting even the minimal goals contained in that law. It is also fair to say that we are squandering the opportunity to ensure that the very large amounts of federal and state money spent on child welfare services be used to benefit, rather than harm, our country's poorest and most vulnerable children.

The solution is not to eliminate the minimal protections we have. The solution is to make these protections more effective.

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II. THERE MUST BE ADEQUATE FEDERAL REVIEW AND OVERSIGHT TO ENSURE THAT THESE STANDARDS ARE APPLIED.

This subcommittee is concerned with the question of whether the 427 reviews have, thus far, served to improve the lives of children. For the most part, the answer to that question is no. However, that does not mean that another form of federal oversight would not bring about a different answer. Congress was concerned about the lack of federal oversight in 1980; it should be equally concerned today. While we are critical of the Section 427 reviews that have taken place thus far, we very strongly endorse the need for meaningful, effective oversight, which can and should be provided under Section 427 of the statute. That is not to say that section 427 could not be improved. But even as presently enacted, that section 427 provides a basis for adequate monitoring, if the procedures that are developed under the statute -- about which HHS has broad discretion -- are well-planned and meaningful. The procedures that have been utilized in the past were not.

Section 427 of Public Law 96-272 provides that states must meet certain criteria related to the broad goals in the Adoption Assistance Act in order to qualify for additional federal payments. It does not specify how the federal government should make the determination of whether those criteria have been met.

In the past, the Department of Health and Human Services chose to comply with this provision of the law by conducting what this subcommittee is referring to as the "427 reviews." It would be hard to find many people who believe the reviews, as previously conducted by HHS, tell anybody anything about whether states are protecting children, or meeting the broad goal of trying to ensure that children grow up in families -- either their own, or adoptive -- whenever possible.

As originally enacted, section 427 of the Adoption Assistance Act required states to provide minimal services and have certain systems in place in order to receive child-welfare funds under the statute. In an effort to assess whether states were complying with these minimal mandates, the Department developed a process that involved an overview of state systems as well as a review of a very small number of case records of children in the state's foster-care program. Based on this review, the Department would then declare whether the state was or was not complying with the mandates of section 427. Those states that were out of compliance were to be declared ineligible for federal reimbursement for the fiscal year to which the finding of noncompliance applied.

As an initial matter, the review methodology was hopelessly inadequate. For instance, under that methodology, the Department could look at as few as 25 cases, regardless of how many tens of thousands of children were in a state's foster care system, in concluding that the state was complying with the statute. The shortcomings of the methodology were best demonstrated in 1989, when the Department declared that the District of Columbia had passed its 427 review shortly before a federal judge described the DC system as a "travesty" and found the whole system to be operated illegally in violation of the Adoption Assistance Act as well as the federal Constitution and statutory law of the District of Columbia.

Now, in addition to the fact that Congress suspended the funding sanction for states that failed 427 reviews, HHS has also suspended the reviews themselves. It is my understanding that HHS has been working on new procedures to provide more effective and meaningful reviews. Whether this new version of the 427 reviews will indeed, be better, remains to be seen. But it is clear that effective and efficient federal reviews can be designed to determine whether children are being protected and whether the minimal goals of 96-272 are being met.

However, it is absolutely essential that the federal government not shirk from its oversight responsibilities on behalf of children who are in state custody, or at risk of entering custody, and for whose benefit large amounts of federal money have been appropriated. Section 427 imposes no constraints on HHS' development of an effective and meaningful monitoring process, does not dictate either the scope or the extent of the reviews, and provides wide flexibility to develop reviews that are not unduly burdensome but which nevertheless allow the federal government to protect these children.

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Congress went a step further in ensuring the potential effectiveness of 427 reviews by its passage of H.R. 5252 in the 103rd Congress. This bill provides for a far more constructive and far less intrusive new review process. Under this new bill, states substantially complying with the broad goals of the federal law will be reviewed less frequently. States which "fail" the new 427 review will have the opportunity to implement their own corrective action plan, with the provision of technical assistance. The bill still makes federal sanctions available, but provides far more opportunity for non-complying states to bring themselves into compliance with the federal standards, without being penalized by the loss of federal funds while trying to do so.

While the "427 reviews" utilized over the last 14 years have not demonstrably improved the lives of children, they were very deeply flawed. That does not in any way eliminate the need for adequate 427 reviews, Congressional oversight and protection for these children. Without impugning the concerns of many at the state level for their state's neglected and abused children, the inescapable fact is that too many states have a demonstrated record of failing to protect the children in their custody.

III. THE STANDARDS SET BY FEDERAL LAW MUST BE LEGALLY ENFORCEABLE.

In the absence of specific, enforceable federal standards, such as currently exist in the federal Adoption Assistance Act, the half-million children in government custody have few rights against their state custodians, if these custodians fail to meet the minimal standards and provide basic protections to them.

Although the states are entitled to discretion to determine the best way to meet the federal standards and to provide proper care for children, what programs are most effective in trying to ensure permanence for children, and how best to provide services to these children. However, the states should not have the flexibility to take millions of dollars in federal funds and not even make efforts to meet these very broad goals, or to operate their child welfare system in such a way that makes the achievement of these goals impossible.

For example, to take some real-life illustrations, state child welfare systems in which the telephone lines set up to receive abuse reports often go unanswered are not making efforts to protect children. States which leave children in unlicensed and unsupervised foster homes are not experimenting with new program designs. States which determine that abandoned three-year-old children are unadoptable -- without trying to recruit adoptive parents for them -- are not trying to find permanent homes for children. States which fail to provide any treatment at all for sexually abused children are not providing services to meet children's needs. Nevertheless, and regrettably, these situations exist in too many of our cities and states -- all of which operate federally-funded children welfare systems.

The standards currently contained in federal law do not permit advocates to challenge a state for violating federal law based on the view that one approach to children's services may be better than another. It does permit advocates to seek protection for children, however, when a state does not even develop its own reasonable approach. Without such standards, and the right to enforce these standards, children are entirely without protection.

Increasingly, and in some measure because the federal government has not itself ensured meaningful implementation of the law, the standards in federal law have been used as the basis for lawsuits on behalf of abused and neglected children. For example:

> In the District of Columbia. Caseloads were so high that one worker testified she couldn't develop plans for children -- she just wanted to make sure that all the children on her caseload were still alive. Almost no children were adopted, because the District did such a poor job of recruitng adoptive parents and making children legally available for adoption. Young children lived for years in expensive emergency institutions because foster parents weren't recruited or screened, and there were virtually no services to either help parents keep their children at home, or to help them take children back from foster care.
>
> In addition to being extraordinarily damaging to children, the Washington, D.C., foster care system wasted extraordinary amounts of

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money. Children were kept in the most expensive but unsuitable kinds of care, and left in foster care when they could have been discharged either to their parents or to adoptive parents. The computer system was so outdated that over a million dollars was being paid to foster parents who no longer cared for children but whose names had never been taken off the rolls.

After a successful lawsuit was brought, problems remain but a great deal has already changed: training was instituted for all workers, the number of workers tripled; foster homes are now being visited and supervised; hundreds of children are being adopted; special units have been created to help children stay out of foster care by providing short-term help to their parents; and the response to child abuse and neglect reports has become more timely.

Now, because of continuing difficulties, outside experts have been brought in by the federal court to help the District solve some of its problems that continue to put children at risk.

LaShawn had spent her entire six years in foster care when the case went to trial, and was matched with adoptive parents because of the lawsuit. Her adoptive father said that when she came to live with his family, she didn't even know how to jump rope, tie her shoes, or play with other children. "This was a little girl who didn't know what a hug was. She didn't know what love was," he has said.

Although the problems in the District of Columbia are well known, the problems in its child welfare system are not, unfortunately, unique to this city.

Other systems have had similar problems, and lawsuits there have produced similar results.

In Connecticut, a lawsuit was filed after the state social services commissioner likened the system to a "hospital emergency room" and decried the "senseless, merciless destruction and devastation of our children." The state agency was failing to investigate 60% of the children reported as abused or neglected. The medical needs of children in state custody often did not receive routine medical care, foster parents were so underpaid that committed foster parents had to reach into their own pockets to buy adequate food and clothing for children, limiting the number of people willing to provide homes for children. Connecticut had many of the same problems afflicting the Washington, D.C. system.

A lawsuit filed in 1989 resulted in a consent decree approved 13 months later. Since then the state has been moving forward with implementation, sometimes unevenly, but with the clear goal of improving services for children in the state. Among the many achievements: a 50% reduction in caseload, so workers can provide better services to children; the creation of a training academy; the development of statewide policies; and an increase in payments to foster parents to meet minimal government standards for the care of a child.

In New Mexico, an adoption system was created where none existed, and where one-third of the foster care population was characterized by a state report as being "in limbo," after a lawsuit based on federal law was filed.

In Kansas, a lawsuit based in part on federal law and relying on the results of a state auditing agency that concluded that protective service investigations were not taking place as required by law, that children were not receiving case plans and were being placed in dangerous foster homes, and that few efforts were being made to have children adopted when they could not be returned to their parents, resulted in a consent decree that incorporates a statewide reform plan.

It would have been difficult to have produced these benefits for children without being able to rely on the specific standards contained in federal law, and which Congress is considering eliminating through block granting.

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It is an extraordinary fact that for many children in federally-funded state foster care, their time in government custody will be more damaging than the abuse or neglect they suffered originally. It is extraordinary that this is taking place at the expense of the federal taxpayers. For the most part, states have not complied with the existing minimal protections afforded to children in existing federal law. Nor is there any evidence at all to suggest that the existence of the law or of the 427 reviews were in any way responsible for the deplorable state of child welfare services nationally. Eliminating rather than strengthening these protections, and the possibility of effective federal oversight, by block-granting federal child welfare services and foster care programs to the states will surely not provide any benefits to children. It will only leave them more vulnerable and unprotected than they already are.

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Chairman JOHNSON. Thank you very much, Ms. Lowry.
Mr. Petit.

STATEMENT OF MICHAEL PETIT, DEPUTY DIRECTOR, CHILD WELFARE LEAGUE OF AMERICA, INC.

Mr. PETIT. Madam Chairman and members of the subcommittee, I am Michael Petit. I am the deputy director at the Child Welfare League of America, a 75-year-old nonprofit organization that represents 800 public and private child-serving organizations. About 2.5 million children a year are served by our member agencies.

In the last 25 years, I have worked on child welfare issues and have traveled to all 50 of the States working to evaluate and strengthen their child welfare systems. In the 8 years prior to that, I was the commissioner of Maine's Department of Human Services, which is that State's child welfare agency. In my travels, I discovered that the good news is, like the lady who testified at the beginning, there are thousands of individuals privately and within agencies who successfully protect children each day and who help families learn to better manage their own affairs. Yet, hundreds of others—hundreds of thousands of other children are living in dangerous and neglectful situations and most of those children are presently known to the authorities. For these children, government at all levels is the one thing that stands between them and grave injury.

It is our strong belief that the Federal role in this instance needs to be strengthened, not weakened. The real issue is that which you were alluding to earlier, which is that an increasing number of families are unable to manage the affairs of their children safely. The consequence of that is a State and county child welfare system that is so overburdened that many children in danger are literally receiving no protection whatsoever.

On the whole, the child welfare programs that we have visited in the country—and as I said, our work is helping those States to evaluate their systems—are generally severely underresourced. There are no States that meet Child Welfare League of America standards. We have been setting those standards for nearly 75 years. We have 11 volumes of such standards.

The caseloads that we encounter are as much as 100 to 1. Our recommended caseload standards in some of those programs are as low as 15 to 1.

With respect to flexibility and block granting, we think that is a terrific idea, at one level, the flexibility. But if the States were operating to the maximum degree of flexibility and efficiency, they would still be severely underresourced. There are simply too many families—States have been virtually overwhelmed by the crush of cases that have been brought to their attention.

The 18 children that you made reference to earlier, Madam Chairman, last year in Chicago, that were discovered in a neglectful situation, I subsequently met with many agencies across the country around that particular issue. It is viewed as a garden-variety type of a neglect problem; it is not viewed as an extraordinary case at all.

Representative McDermott asked what can be done programmatically. Among the things we are strongly advancing are notions like getting serious with teenage pregnancy and all that means. Home visitor programs to certain households, particularly teenagers on AFDC, until such time as it is proven that home visitations are no longer necessary.

We have got some excellent models on that: Serious parenting instruction; child care in every school in this country, including programs that are run by junior and senior high school students; and with regards to training, one-half of the States have no preservice training right now for the child welfare workers. You can be a 23-year-old socialworker on Friday doing food stamps, and on Monday you are talking about somebody who has had sex with their children.

Having served as a State administrator myself and having interviewed hundreds over the years, 427 is a meaningless process for most of the States. It represents no kind of sanctions to the States whatsoever. It is viewed as a paper tiger.

Overall, I would give the system a grade of D. The reason why is that, for example, half of the kids that are killed in this country at the hands of their family members are already previously reported to the department. In one study, 40 percent of the kids returned from foster care, 1 year later, had been reabused and were back in State custody.

And one area that is seriously neglected is child sexual abuse. It is our belief right now that fewer than 1 out of 10 child sexual abuse cases in this country, where a felony has been committed, result in a prosecution. That means that 90 percent don't have a prosecution. And in State after State we ask judges, socialworkers and others if they believe that there are children that they know who are living at home with a sexual perpetrator, and the answer is always yes.

Some States have a much stronger inclination to do this than others. Let me give you two States, 3 million people in both States. One of them spends $24 million on its entire child welfare system. The other one spends $240 million on its child welfare system. Block granting anything back to the States is not going to change that reality.

The State's general fund appropriation is $4 million in the first instance. In that State, I have visited children in jail, 9 years old, whose only offense is to have been sexually abused by an adult, in jail because there was no other place to locate the child; children, 13 years old, in straitjackets because of mental illness, in local lockups without legal representation.

One of the consequences of all this is that telephone calls come into jurisdictions in which they are supposed to generate a protective investigation. In one jurisdiction we are working with right now, they get 30,000 referrals a year. They screen out 24,000, they go out on 6,000. They don't go out on 24,000. Imagine a comparable situation with the local fire department in which there is an inquiry over the phone trying to screen out a fire call because of, how hot is the smoke and what color is—what color is the flame?

Finally, with regards to the paperwork issue that was raised by Congressman Matsui, our experience, when we asked socialworkers this question—we have asked thousands of them, how much of your time is spent on paperwork versus families, it ranges from a low of 3 percent with families, to not much more than 25 percent with families.

There is a crushing weight of paper. I would submit, though, that it is marginally related to Federal reviews. It is mostly related to the kinds of legal processes that are going on in the courts.

And I would just note that on that, when we are talking about taking children away from their families, I have a hard time imagining something that isn't going to be largely driven by certain legalistic considerations. Our testimony includes, I think, some 14 recommendations which I would be happy to talk about at some point.

[The prepared statement follows:]

TESTIMONY OF MICHAEL PETIT
CHILD WELFARE LEAGUE OF AMERICA, INC.

Madam Chairwoman and members of the Subcommittee, I am Michael Petit, Deputy Director of the Child Welfare League of America (CWLA). CWLA is a membership organization representing 800 public and voluntary child serving agencies that assist over 2.5 million vulnerable children and families each year. CWLA welcomes this opportunity to testify on federal child welfare programs and how the Congress might better protect children and improve their lives. I believe this is an urgent matter. Children are in danger and the federal government has a key role to play to protect them.

The principal focus of my work throughout my career has been to work on behalf of families in the care, development, safety and protection of children. At CWLA I also serve as the Director of CWLA's National Center for Excellence in Child Welfare. I have been to all 50 states and in nearly all of them have worked with state and local governments to evaluate and strengthen their abilities to better protect our nation's children. In the eight years prior to my work at CWLA, I served as the Commissioner for the State of Maine's Human Services Department. That Department had jurisdiction over child welfare, AFDC, Food Stamps and Medicaid. In the decade prior to that, I worked for private non-profit organizations such as United Way at the neighborhood and local level.

CWLA concurs wholeheartedly with your Subcommittee's desire to reexamine the effectiveness of current federal efforts on behalf of abused and neglected children. The good news is that there are many thousands of individuals, to be found in every state and jurisdiction, who are deeply committed to the care and safety of children and who everyday successfully protect and serve children at risk, whether in or out of their home, and who help families learn better ways to manage their own affairs. Their dedicated efforts provide the front line assistance that children need and these workers deserve great recognition for the important work they perform daily.

However, children's lives are in danger and the federal government has a critical role to play to keep them safe. I have found that, despite the best efforts of local communities and state governments, the work of the country's public and private child welfare agencies is insufficient to the task. Unless the federal government provides more leadership, not less, promotes greater accountability, not less, and commits more resources, not less, to the care and protection of children, states will not be able to adequately protect and care for the lives of our children. Hundred of thousands of children are at risk of serious injury and death and many of them known to authorities are failing to receive the attention and protection they require.

Much needs to be done to remedy these terrible situations. Specific to the questions posed by the Subcommittee, CWLA urges that an entitlement be maintained to help children receive the services they need to keep them safe. A block grant could severely undermine state and local community efforts to protect and serve children by eliminating the individual guarantee of support. Many of these children are in state custody. In other words, the state is their legal parent. They should not have to depend on an accident of geography and goodwill to be protected. We also must ensure enforceable protections for children in whatever systems are put in place. Accountability that includes a range of sanctions with real teeth is needed at all levels. Right now, 427 reviews don't accomplish that objective.

While child welfare is the administrative focus on these issues, the courts, as we all know, play a central part in child welfare determinations and must be included in new partnership to address the problems.

STATE CHILD WELFARE SYSTEMS ARE SO OVERBURDENED THAT MANY CHILDREN IN DANGER RECEIVE NO PROTECTION

I have worked with thousands of individuals engaged in the process of caring and protecting our nation's most vulnerable children—social workers, judges, law enforcement officers, prosecutors, state and local administrators, elected officials, therapists, educators, public health officials, and hundreds of children and families whom the system is intended to serve. I have learned first hand of many abused children who are protected, and whose families are successfully helped, because of effective intervention. But I have also learned first hand of numerous children, young and old:

- who are profoundly neglected—no food; no medical care, no personal hygiene
- who are abandoned—a six-year-old boy pushed from his car and left on the interstate
- who are seriously abused—severe head injuries resulting in a life time of paralysis and semi-consciousness spent in nursing homes
- who are raped repeatedly by adults—as young as 4 weeks old with venereal diseases, a 5 year old child with cerebral palsy sexually assaulted in her own crib
- and who are killed—burned to death in furnaces, hacked to death, drowned when forced to drink gallons of water.

Unfortunately, those agencies and individuals with the principal responsibility for addressing the horrible problems experienced by many children are nearly overwhelmed by the sheer number of children in need of protection, and by the increasing number of parents unable to fulfill their traditional protective responsibilities to their children. Having worked in this field for 25 years, I conclude that the nation's response to the often life-threatening conditions in which many of these young victims lives is unorganized, underfunded and, ultimately, completely inadequate.

Although child welfare operations vary wildly from one jurisdiction to another, sometimes even within the same state, and certainly some do a better job than others, the federal Title IV-E 427 review process has largely been ineffective in capturing these differences and certainly in compelling, or even guiding, corrective actions to improve the situation.

FEDERAL PROTECTIONS AND SANCTIONS ARE CRITICAL

Having served as a state administrator myself, and having worked with hundreds of others over the years, I can state with confidence that the use of federal sanctions aimed at correcting major deficiencies in state or local operations is not a worry to the states because, in practice, there are no federal sanctions. While the 427 review process has indeed created an onerous paper burden in some jurisdictions, it has not worked to effectively change the way the system care for our children. Congress and the Administration have begun to take welcomed steps to improve the 427 review process. Much more needs to be done.

The idea of a vigorous federal monitoring role must not be dismissed. In fact, CWLA believes that the federal government must assume a much stronger role in working with state jurisdictions, in a true partnership, to attack the widespread problems of child abuse and neglect which deeply threaten and damage our culture.

PRINCIPLES OF P.L. 96-272 REMAIN SOUND

CWLA continues to endorse the progressive principles passed by Congress in 1980 and contained in the Adoption Assistance and Child Welfare Reform Act (P.L. 96-272). We believe this law's emphasis on making all reasonable efforts to allow abused and neglected children to remain in their own homes with their own families, if it can be done safely, is the proper central tenet in providing assistance to troubled families and their children. In many jurisdictions across the country progress has been made in introducing family-focused, child-centered services in response to abuse and neglect; many children have been able to remain safely at home or safely returned to their homes after receiving short or long-term placements because of P.L. 96-272's commitment to reasonable efforts and family reunification. This is an accomplishment with which we can be pleased.

Specifically built into the law are the following priorities:

- providing supports to families in order to prevent separation of children from their families

- where separation is necessary, providing support services to enable children to be reunited with their families

- where reunification with their own families is not possible or appropriate, providing services that enable children to be adopted or placed in permanent foster homes with some form of legal protection.

To accomplish the above purpose and priorities, the law incorporates a number of procedural reforms and fiscal incentives:

- Provision of preplacement and postplacement services to keep children in their own homes or reunite with their families as soon as possible. These are sometimes referred to as services that must satisfy the "reasonable efforts" clause of the law.

- Requirements of case plans, periodic reviews, management information systems, and other procedures to ensure that children are removed from their homes only when necessary and are placed with permanent families in a timely fashion.

- Redirecting federal funds away from inappropriate foster care placement and toward permanent alternatives, particularly adoption.

- Establishment of adoption assistance programs, specifically federally funded subsidies for adoption of children with special needs, such as older, disabled and minority children.

Despite these provisions, the nation's collective response to abused, neglected and abandoned children is failing to provide both protection and appropriate living arrangements for hundreds of thousands of them: many are removed from their families prematurely without reasonable efforts having been made. Some are not removed quickly enough. Many children unnecessarily remain in foster care because of inadequate reunification efforts. Other children are reunified but without adequate follow-up services to their families, resulting in re-abuse and removal once more. Some children and youth are placed in facilities appropriate to their needs, others are placed in programs that are too restrictive or nor restrictive enough. For some children, known to be living in dangerous or threatening conditions, little or nothing is being done.

It is also reflected in the deaths of children killed at the hands of family members, nearly half of whom had previously been reported as abused or neglected prior to their death. A study found that 40% of one group of foster children, who had been reunified with their families, were placed back in foster care within a year because of re-abuse or further neglect. An informal, but reliable, opinion surveys of child welfare agencies and law enforcement agencies revealed that perhaps fewer than one in ten strongly suspected cases of child sexual abuse result in prosecution and conviction.

FEDERAL GOVERNMENT HAS KEY ROLE

CWLA strongly believes that the principal role of government and private agencies in the lives of troubled children and families is to enable families, whenever possible, to better manage their own affairs and safely care for their children. We are talking about the protection and care of millions of children.

Some jurisdictions have a much stronger inclination and capacity than others to address this urgent challenge. For example, consider the commitment of resources: two like-sized states of nearly 3 million people have allotted hugely different sums to child welfare, twenty-four million dollars in one state, two-hundred and forty million in the other, the last time I looked.

In the first state, we have seen children as young as nine years old, whose only offense was to have been sexually abused by an adult, spending days in jail because there was no foster home, emergency shelter or residential care facility for the child. In the second state, there is a well developed network of treatment services and shelter to help the child.

In the first state, child welfare workers involved in the most intimate aspects of a family's life can begin their job having received little or no training. In the second state, workers must have sufficient experience and education prior to being employed by the agency and receive weeks of specialized training prior to ever handling a case.

In the first state, juveniles who run away from home or who commit the most modest offenses, such as shoplifting or not attending school, can find themselves in a state training school or local jail, sometimes without legal representation, because there is no alternative shelter. In the second state, there is a network of specialized treatment and residential care aimed at meeting the child's needs and getting him reunited with his family as quickly as possible.

In the first state, there are no intensive family preservation services which might have prevented placement in the first instance. In the second state, there is a statewide network of family preservation services preventing hundreds of unnecessary placements each year.

In the first state, a well defined blueprint documenting in detail the extensive child welfare problems that exist, including what it would take to correct the problems is ignored by the governor and legislature despite extensive press coverage and a large state budget surplus. In the second state, the governor and legislature convene public forums, hold press conferences, convene citizen groups and conduct the extensive public education and planning needed to effectively protect abused and neglected children.

Neither the 427 review process nor any other federal oversight mechanism captured the differences in these two states and the subsequent harm that routinely befall the children in the first state.

The different responses by these states are not unusual nationally. In some states, elected officials provide leadership on behalf of abused children. In other states, we regularly encounter situations in which the basic attitude towards child welfare, communicated by top elected officials in the executive and legislative branches to child welfare administrators at budget time, is "don't ask, don't tell." And they usually don't. When they do, they may be fired, a situation we have encountered more than once. Neither the 427 review process, nor any other federal oversight mechanism, is able to address this reality at the present time.

These wide variations have tremendous implications for children. For instance, in some jurisdictions virtually all child abuse and neglect referrals result in an onsite investigation. In one jurisdiction in which we are working 30,000 referrals are made each year to the public child welfare agency. The agency screens out 24,000 by telephone. Imagine a fire department, whose dispatcher receives many false alarms, screening out 80% of its calls by telephone: How hot is the flame, the dispatcher might ask? What color is the smoke? What fabric is burning? Are you able to put it out yourself? This would be absurd, of course, because everyone recognizes that the consequences of being wrong in the assessment are so severe that it is worth the added cost to check every situation in person. This is how it should be for our children.

CWLA believes the amount of child abuse and neglect in this country is a national crisis. We believe it is contributing directly to subsequent criminal behavior. We know that many child victims eventually turn the tables and become the menacing victimizers we have come to fear. In the debate about crime insufficient attention is being paid to the connection between child abuse and neglect and public safety. We absolutely concur that neighborhoods, communities, counties, states, public and private providers of services, families themselves and all others with an interest in the well-being of children must be deeply involved and have important roles to play in solving the alarming and worsening problem of abuse and neglect.

We believe equally however, that despite the best efforts of local communities and state governments, the work of the nation's public and private child welfare agencies will remain insufficient to the task unless the federal government provides more leadership, promotes greater accountability and commits more, not fewer, resources to the care and protection of children. We believe a national strategy is necessary and must be tied together by a federal government working in close cooperation with states and local communities in the public and private sectors.

We recommend:

1. **First, maintain the entitlements** for all services necessary to provide care and protection to children who are brought into state custody. Block granting the entitlements would undermine the ability to protect and serve children and would make safety dependent on accidents of geography or individual goodwill. Careful and thoughtful consolidation of some discretionary activities in related areas would make good programmatic and fiscal sense.

2. **Include enforceable protections** in whatever systems are put in place. At present the federal government is a paper tiger in addressing the worst violations of federal intentions in child welfare. In numerous instances where class action litigation has been filed the state had recently passed a 427 review.

3. **Assume greater responsibility for coordinating and enforcing all federal child welfare initiatives,** and provide support and guidance to the governors enabling them to better coordinate federal efforts at the state level.

4. **Promote a nationwide unifying theme of child-centered, family-focused casework practice** as the heart of government strategy for protecting the safety and best interests of abused and neglected children.

5. **Provide support for the full array of prevention and treatment services** necessary to assist victims of child abuse and neglect.

6. **Develop national standards for child welfare practice** and condition federal funds to the states upon full adherence to these standards by the year 2000.

7. **Develop a national data base**, with mandatory state participation, that allows for more serious and effective accountability and planning.

8. **Establish and enforce more rigorous and comprehensive scrutiny of child welfare outcomes** within the states.

9. **Continue support for new computerized case management technology** that promises to better protect children, reduce unnecessary removal of children from their families, greatly reduce paperwork, increase social worker productivity and strengthen management capacity.

10. **Identify the true costs required to respond effectively to the country's child welfare crisis**, based on uniformly developed, state-by-state budget estimates, and provide the federal funds to support the national governments fair share needs.

11. **Develop a nationwide system of worker recruitment, training and certification**, including ongoing training of all child-serving staff, supervisors and administrators, similar to that which exists for nurses and teachers.

12. **Conduct a nationwide campaign to recruit new foster and adoptive homes and to retain existing homes,** and assist the states in their efforts to retain current foster homes and promote adoptions.

13. **Develop a technical assistance capacity to assist the states** in the transformation of their child welfare systems.

14. **Convene a national panel, to report back to the Congress** by this summer, on the scope of the problem nationally and the applicability of the above recommendation, and others, on this national failure to our children.

We recognize better than anyone that the federal government is unable to provide the warmth and attention that every injured child requires for healing. But we do know more about producing healthy children than ever before. We are committed to the idea that children do best when families are attentive to their needs. We believe equally that families themselves do best when communities are attentive to their needs. That speaks to the need for supportive public policies that help communities help families in the care and protection of all children. The federal government must assume a far more vigorous role in working with the states to assure that every child in every community is protected.

Thank you for this opportunity to express our concerns and suggestions. We and our 800 member agencies across the United States look forward to working with members of the Subcommittee and its staff to craft smarter and more effective ways to address the needs of injured children.

Chairman JOHNSON. Thank you very much.
Mr. Henry, Children's Rights Council.

STATEMENT OF RONALD K. HENRY, ESQ., CHILDREN'S RIGHTS COUNCIL

Mr. HENRY. Thank you. My name is Ron Henry. I am a volunteer child welfare attorney, testifying today on behalf of the Children's Rights Council. The Children's Rights Council would like to thank the Chair and the committee members for scheduling this very important hearing on the reform of the Federal role in child welfare programs.

The Children's Rights Council is a nonprofit educational organization whose sole purposes are the encouragement of family formation, family preservation, and the demilitarization of divorce to keep both parents actively involved in the child's life.

In providing services to children, we must always begin with the understanding that the best service we can provide to at-risk children is to reduce the number of children who become at-risk. Regardless of the social pathology that is under study—whether it be teenage pregnancy, drug abuse, suicide, low self-esteem, juvenile delinquency, poor academic performance or any of our other social ills—the greatest causal factor that researchers find for us is family breakdown or family nonformation or, as you heard from some of the earlier witnesses, father absence. We believe and we are here to talk to you today about the most underutilized resource in child welfare; that is, the family itself.

All of our programs currently focus on the single custodial mother alone. We give huge arrays of resources, many of which you have heard described today. We prop up that single mother as a stand-alone entity and insist over and over again, despite experience, that we are going to make it work.

Many of these single-parent families will never be able to function without support. Many of them will never even be able to function with support. Many of them continue in the very abuse and neglect that brought the child into the system in the first place. We know that from our history. That is why we have been discussing such things as orphanages, and other third-party placements for children.

Right now, our problem is that policy assumes a dichotomy of choices for children. Either we preserve that single-mother, propped-up situation, or we go to third-party care. We believe there is another way, a middle ground. That is, kinship care, using the resources of the full connection of blood-related relatives, all the people who care about and have a passionate love for that child because of their relationship to the child. That is the resource that is often overlooked and the one that we think needs to be brought more fully to the center.

If we continue to believe that the single custodial mother is the child's sole family, we will be butting our heads against the wall forever. We will be continuing to come up with new props, new services, 7-days-a-week housekeepers and the rest. That is not going to get us anywhere.

The typical at-risk child enters the welfare system as the result of an abuse and neglect complaint. Many of these abuse and neglect complaints are initiated by other family members who observe and are concerned about the child's status.

Now, before addressing the positive steps that we can take as a government to aid that child, we first must be sure to obey the physician's creed, "do no harm." Too often, our approach does harm. When the Federal Government's narrow definition of family preservation is heavily oriented toward defending the single-parent custodial household, Federal intervention can and does actually prevent an improvement in the child's situation.

Take, for example, the sadly all-too-common case of an abusive or neglectful parent who is reported to authorities by other relatives, such as the grandparents. The grandparents are concerned about the welfare of the grandchild. They are frequently willing, even eager, to provide rescue for the child in their own home. Rather than obeying the physician's creed, however, Federal family preservation resources are reflexively mobilized on behalf of the abusive parent—cash benefits, the housekeeper, counseling, in-home services, free or subsidized legal services and other resources are all brought to bear to prop up that dysfunctional single parent. Generally, the only party who is not legally represented or subsidized by the Federal Government will be the very relative who reported the child's need and offered himself as a rescuer in the first place.

One simple but critical reform is to recognize that family preservation is not limited to the single-parent household, but includes the blood relatives of the extended family or kinship network. Whether it is the father, the grandparent or the aunt who seeks to be part of the answer for the child's needs, the government is wrong when it defines family preservation to exclude these relatives and actually mobilizes its own resources to resist their involvement.

The tunnel vision that afflicts current family preservation efforts can be seen at all stages of the child welfare process. It is rare for a caseworker even to seek the identity of the child's father, and almost unheard of for the caseworker to seek information regarding the father's fitness and willingness to provide for the child's needs. Too often, we ask only, can that father send a check. We don't look at that father as a human being, as a parent, as a physical and emotional resource for the child. If the father or another relative independently comes forward in an effort to assist the child, the caseworker's standard response is to resist rather than embrace the assistance. This resistance is wrong.

The government's interest is in protecting the child and not in defending one parent's ownership of that child against all others. Family preservation must be understood to include and encourage the participation of all family members, and must move beyond the mere administration of programs designed to prop up the single parent as a stand-alone entity.

Now, Madam Chairman, I have a number of specific responses or ideas in response to Congressman Matsui's request, which I will save for the question and answer period. But just to conclude briefly, the committee recognizes the broad differences among State programs. One of the things that we do wrong now is to measure State performance in terms of the number of Band-Aids they count and administer; we are measuring how many Band-Aids rather than how much healing.

We need to change the 427 review process to look at the extent to which child welfare is enhanced. We need to look at whether the child's safety is improved, whether the child's behavior is improved, and whether the child's school performance has improved.

Madam Chairman, I look forward to the question period. Thank you.

[The prepared statement follows:]

TESTIMONY OF THE CHILDREN'S RIGHTS COUNCIL BEFORE THE UNITED STATES HOUSE OF REPRESENTATIVES COMMITTEE ON WAYS AND MEANS, SUBCOMMITTEE ON OVERSIGHT

JANUARY 23, 1995

PRESENTED BY RONALD K. HENRY

The Children's Rights Council thanks the Chair and Committee Members for scheduling this very important hearing on reform of the federal role in child welfare programs.

The Children's Rights Council is a non-profit, educational organization whose sole purposes are the encouragement of family formation, family preservation, and the "demilitarization" of divorce.

In providing services to children, we must always begin with the understanding that the best service we can provide to "at-risk" children is to reduce the number of children who become "at-risk". Regardless of the social pathology that is under study, whether it be teenage pregnancy, drug abuse, suicide, low self-esteem, juvenile delinquency, poor academic performance, or any of our other social ills, the greatest causal factor is family breakdown or family non-formation.

Virtually all of our social welfare programs are band aids and tonics to treat our childrens' afflictions. The intact two parent family is the immunization program that reduces the tragic needs for band aids and tonics. Too often, our government programs have forgotten the simple axiom that prevention is better than treatment. This hearing on family preservation programs specifically demonstrates the need to reform government programs that focus on treating symptoms while leaving the cause of the symptoms in place.

In virtually all of our programs, the phrase "family preservation" has become narrowly defined to mean the propping up of the single mother household as a stand-alone entity. While most single parents do all they can for their children, and many children of single parents develop beautifully, the inescapable history of our programs demonstrates that many single mother households will never succeed as stand-alone units and many children in those households are in grave danger, both physically and developmentally.

THE KINSHIP CARE ALTERNATIVE

The typical "at-risk" child enters the child welfare system as a result of an abuse and neglect complaint or at the request of the single custodial parent. Many of the abuse and neglect complaints are initiated by other family members who observe and are concerned about the child's status. Before addressing positive steps that can be taken by the government that can aid the child, we must be sure to obey the physician's creed of "First, do no harm."

When the federal government's narrow definition of "family preservation" is heavily oriented toward defending the single parent custodial household, the federal intervention can actually prevent an improvement in the child's situation. Take, for example, the sadly all too common case of an abusive or neglectful parent who is reported to authorities by other relatives such as the grandparents. The grandparents are concerned about the welfare of the grandchild and are frequently willing, eagerly or reluctantly, to provide rescue in their own home. Rather than obeying the physician's creed, however, federal "family preservation" resources are reflexively mobilized on behalf of the abusive parent. Cash benefits, counseling, in-home services, free or subsidized legal services, and other resources are brought to bear to prop-up the dysfunctional single parent. Generally, the only party not legally represented and subsidized by the federal government will be the relative who reported the child's need and offered to serve as a refuge. One simple but critical reform is to recognize that family preservation is not limited to the single parent household but includes blood relatives in the extended family or "kinship" network. Whether it is the father, the grandparents, or the aunt who seeks to be part of the answer to the child's needs, the government is wrong when it defines "family preservation" to exclude these relatives and actively mobilizes its resources to resist their involvement.

The tunnel vision that afflicts current "family preservation" efforts can be seen at all stages of the child welfare process. It is rare for a caseworker even to seek the identity of the child's father and almost unheard of for the caseworker to seek information regarding the father's fitness and willingness to provide for the child's needs. If the father or another relative independently comes forward in an effort to assist the child, the caseworker's standard response is to resist rather than embrace the assistance. This resistance is wrong. The government's interest is in protecting the child and not in defending one parent's ownership of that child against all others. "Family preservation" must be understood to include and encourage the participation of all family members and must move beyond the mere administration of programs designed to prop up the single parent as a stand-alone entity.

The absurdity of the current system is even more starkly highlighted in situations where the caseworker realizes that the child must be taken from the care of the single parent. In every state in the country, the standard operating procedure is for the bureaucracy to skip over the entire extended family and consider only third party placement. The bureaucracy's fallacy is in viewing child placement as a simple dichotomy -- an unfit single parent versus third party foster care or adoption. Kinship care needs to be recognized as the broad middle on the continuum of options between single parent custody and third party placement.

While the Committee recognizes broad operating differences in the programs and procedures among the various states, the above prejudices and irrationalities have become a universal outgrowth of the current, narrow federal view of "family preservation." If child welfare programs remain federally directed, "family preservation" must be clearly redefined to embrace and encourage fathers, grandparents and other relatives as child rescuers. If the states are given block grants, the federal government must assure that its responsibility for having created this bias is countermanded in the block grant terms in order to assure that the block grants do not merely perpetuate the status quo.

Regardless of the form given to new child welfare programs, the federal government must change its method for the measurement of program success. Like many federal programs, the 427 review process examines the number of band-aids that have been applied to the wounds rather than the amount of healing that has taken place. In 427 reviews, the states are asked to disclose the number of band-aids and give a description and explanation of those band-aids. What is needed in reforming the

427 process is an evaluation that looks at those things that actually matter in the lives of children:

- Has the child's safety improved?
- Has the child's behavior improved?
- Has the child's school performance improved?

We know that the states are capable of running programs that use lots of band-aids. The federal government's evaluation system needs to be structured to incentivize the states not simply to devote more resources to the problem but to devote the available resources to those things which measurably improve child well being.

Kinship care is a resource currently overlooked by the too narrow definition of "family preservation". Kinship care does not create any new legal obligations, it merely embraces the voluntary love and resources of the family. Kinship care saves money. Unlike foster care providers, kinship care providers need not (Lipscomb v. Simmons, (9th Circuit, April 27, 1992)) and should not (to avoid improper incentives) be paid a salary in caring for their own kin. Kinship care improves child well being, reduces spending, and reduces government intrusion by promoting true family preservation.

The remainder of this testimony describes the overview of the Children's Rights Council's approach to welfare reform with particular emphasis upon the methods by which kinship care can become an important part of the solution in AFDC cases as well as in child welfare cases.

WELFARE REFORM INTRODUCTION

It is time to reform welfare. We must change the systems under which our only criteria are that beneficiaries must continue to neither work nor marry. Children are harmed when the unintended consequence of policy is to favor non-working, single parent households over all others. Most law-abiding citizens work 40 to 45 years to qualify for a social security benefit that is smaller than a teenager's welfare package.

Welfare reform requires attention to four areas: responsibility, paternity, accountability, and eligibility.

Responsibility. Every welfare recipient should be required to devote 40 hours per week to some combination of job search, training and work, with a strong emphasis on work. Revising current programs to end the existing discrimination against two-parent families will also increase access to child-care from both parents and reduce the cost of day-care needs.

Paternity. Current policy fails to distinguish between "runaway" and "thrown away" or "driven away" parents. Successful paternity establishment requires that fathers must be accepted and respected in all programs as family members rather than merely as cash donors.

Accountability. Prior efforts at reform have been reluctant to impose sanctions against uncooperative and irresponsible adults because of a fear of "punishing the child." The reality is that current policies allow children to be held as hostages to guarantee continued subsidy of adult irresponsibility.

Eligibility. Minor parents must live with or at the expense of their own parents. Income based eligibility standards should consider both the income of the parents and the resources that are voluntarily available from the kinship network. Fraud must be addressed as a serious matter.

The following pages provide:

(1) an Overview of Principles and Programs (pages __ to __);

(2) a proposal for kinship care as an alternative to government care (pages __ to __);

(3) a proposal to end federal pre-emption of state law regarding teenage births (pages __ to __);

(4) a proposal for allocation of the dependent tax exemption (pages __ to __); and

(5) a proposal for dealing with program fraud (pages __ to __).

A. OVERVIEW OF PRINCIPLES AND PROGRAMS

There is widespread agreement that the current welfare system is destructive of the families it was intended to help. Despite its good intentions, the government has made a devil's bargain with the poor -- "We will give you money as long as you continue to neither work nor marry." Current programs and many reform proposals are patronizing. They assume that large classes of citizens are simply too stupid and incompetent to make any current or near term contribution to their own support. Real welfare reform requires recognition that there is no respect for the individual unless there is respect for the individual's labor.

1. "Making Work Pay": Rhetoric and Reality

Work always pays. Our problem is that we have established a parallel system under which non-work often pays better. Most law abiding citizens work 40 or 45 years to qualify for a social security benefit that is smaller than a teenager's welfare package. Many welfare recipients are not unemployed, they are prematurely retired. We have long recognized that Social Security rules discourage paid employment among senior citizens. We have recently recognized that welfare rules discourage paid employment among welfare recipients. The cornerstone of welfare reform must be respect for the importance and dignity of work. Except for the small number of people who are genuinely unable to make any contribution to their own needs, welfare must be a supplement, not a substitute for work.

Welfare reform requires attention to four areas: responsibility, paternity, accountability, and eligibility.

2. Responsibility

Responsibility should be immediate, mandatory and universal. Beginning immediately with entry into any welfare program, every recipient should be required to devote 40 hours per week to some combination of job search, training and work with a strong emphasis on work. Actual work experience is generally the best training for advancement in the work place. An immediate, universal work requirement also eliminates the "no job" option and encourages serious search efforts for the best available job.

The work requirement can be satisfied by private employment or by unpaid public service in exchange for receipt of the welfare benefit. Work programs should not discriminate against the non-welfare working poor. Vouchers and other special incentives to hire welfare recipients create the risk of displacing other workers. We should not support programs that have the unintended consequence of encouraging people to enter welfare as the path to job preferences. Community service jobs (*e.g.*, assignment to charitable organizations) provide benefits to the community and training to the employee at little or no government cost. Many of the current, unmet needs of communities can be satisfied by this new pool of labor as a supplement to, rather than a substitute for, current employees.

All programs must be open to and end the current discrimination against two parent families. In two parent families, at least one parent must satisfy the 40 hour requirement.

Welfare reform should also begin the process of examining barriers to entry-level job creation. Many worthy tasks in society are not performed because the total cost of obtaining labor, including regulatory and recordkeeping burdens, exceeds the value of the service. We need to examine the extent to which willing workers have been priced out of the market by government mandates.

Child care may be less of a problem than argued by some. Most current working parents utilize some low-cost combination of family, friends and school to satisfy day care needs. As discrimination against two parent households is eliminated, a greater number of children will have access to child care from both parents. Finally, a portion of the community service assignments can be made to child care organizations to increase the available supply at little or no incremental cost. The Head Start Program already utilizes large numbers of low income parents who begin as unpaid interns and progess to paid staff and supervisory positions.

3. Paternity

Current policy fails to distinguish between "runaway" and "thrown away" or "driven away" parents. The federal government spends approximately two billion dollars per year on child support enforcement but purposefully and consciously excludes fathers from all parent-child programs. Under current AFDC rules, the low income father who wishes to be a physical and emotional asset to his children also becomes a financial liability by disqualifying them from most assistance. Research conducted by HHS itself confirms that both mothers and fathers distrust the bureaucracy and work jointly to conceal paternity. We cannot be surprised by low income parents who separate or conceal paternity when our policies make such behavior the economically rational course. A work requirement for single parents and an end to discrimination against two-parent households will change the dynamics of paternity establishment.

Eligibility for all federal programs should require establishment of paternity, beginning with eligibility for the WIC program. That program itself must be revised to develop and encourage the roles of fathers.

Paternity establishment forms in hospital programs should encourage the parties to voluntarily establish custody and visitation as well as financial support. Avoidance of poverty and welfare dependency are directly linked to father involvement. Child support compliance exceeds 90 percent in joint custody families. Child poverty rates and welfare dependency rates are much lower in father custody families than in mother custody.

Women's workforce participation and economic security are increased in joint custody and father custody families.

4. Accountability

AFDC and other programs are intended for the benefit of the dependent children. Adults receive the benefits and are expected to participate in the programs in support of the children's needs. Failure or refusal to participate in required programs or to spend the cash payments for the benefit of the children should be seen as evidence of child neglect or abuse. Such evidence should weigh heavily in determining whether it is in the best interests of the child to transfer custody to a more responsible relative or to consider a foster care placement. Prior efforts at reform have been reluctant to impose sanctions upon uncooperative and irresponsible adults because of a fear of "punishing the child." The reality is that current policies allow children to be held as hostages to guarantee continued subsidy of adult irresponsibility.

All recipients should be required to reimburse the value of benefits received. Currently, child support paid by non-custodial parents is used for reimbursement after a $50 per month waiver. The custodial parent should have the obligation to reimburse one-half of the welfare payments made on behalf of the child and each adult should have the obligation to reimburse benefits paid on behalf of that adult. Many welfare recipients require only short term assistance and that assistance can fairly be treated as a loan or a line of credit rather than as a grant. A uniform reimbursement requirement also encourages all recipients to minimize the period of dependency, take no more benefits than are required, and resume paid employment at the earliest possible date. Community service should be counted toward the reimbursement obligation but should be valued at a level that does not compete with the attractiveness of paid employment.

5. Eligibility

Under the law of each state, parents have an obligation of financial responsibility for their minor children. If the minor children themselves become parents, the minor parents should continue to be the obligation of their own parents. Accordingly, the birth of a child to minor parents may create a requirement for welfare assistance to the new infant but does not create a requirement for assistance to the minor parents unless their own parents are unable to supply the required support. Minor parents must live with or at the expense of their own parents. Payments on behalf of the new infant should be made to the parents of the minor parents as their guardians.

Welfare payments should be limited to citizens and immigrants with refugee status.

Income based eligibility standards should consider both the income of the parents and any resources that are voluntarily available from the kinship network. See attached proposal for more details.

Fraud must be addressed as a serious matter. Welfare benefits are based on the applicant's self-reporting of available income. If welfare fraud has concealed additional income, welfare eligibility must be recalculated, at a minimum, to include the demonstrated capacity for self support. See attached proposal for further details. Other fraud reduction mechanisms including electronic transfers and improved identification verification must be adopted.

The earned income tax credit must be modified to reduce the incentive and opportunity for strategies such as over-reporting of income to maximize benefits and to reduce discrimination against two parent families. Currently, many working class couples are ineligible for EITC but, simply by splitting into two dysfunctional fragments, both become eligible.

B. WELFARE ELIGIBILITY -- KINSHIP ALTERNATIVES TO WELFARE

There is a broad consensus that welfare dependency is not in the best interests of children. Recent legislative initiatives have begun to examine the structural flaws in existing welfare programs. One of the best opportunities for reducing welfare dependency is to be found in the development of more thoughtful eligibility criteria to better identify the children who are actually in need of welfare assistance.

Currently, most welfare programs look only at the cash income of the custodial single parent without regard to the availability of voluntary kinship or extended family assistance. The attached proposal provides that welfare eligibility should be determined by examining all resources that are available voluntarily through the child's kinship network.

The proposal does not relieve the child's parents of their obligations nor does it impose new obligations on other relatives. Only voluntary kinship assistance is considered.

Examples:

- Brother is willing to care for child of drug abuser with or without change of custody/guardianship. Welfare dependency is not in the best interests of the child and eligibility should be denied.
- Father of child is willing to provide child care with or without change of custody while mother works. Welfare dependency is not in the best interests of the child and eligibility should be denied.
- Adolescent mother lives with her parents. The parents have a legal obligation to support their adolescent daughter and are willing to care for grandchild while daughter completes school or works. Welfare dependency is not in the best interests of the child and eligibility should be denied.

KINSHIP CARE ACT OF 1995

SECTION ONE FINDINGS AND PURPOSES

The Congress of the United States finds that:

Welfare programs are intended to provide temporary economic sustenance for individuals while they seek to enter the workforce and eventually extricate themselves and their dependents from poverty.

Welfare programs have fallen short of this goal as many individuals receiving assistance fail to find and retain jobs.

The failure to escape poverty persists through generations as children of welfare families go onto welfare rolls as adults, resulting in a needless waste of human potential as well as economic and other costs to society.

A primary cause of intergenerational welfare dependency is the adverse impact of the welfare environment upon children.

To break intergenerational welfare dependency requires, where possible, the separation of children from the welfare environment and their placement into family situations that will be conducive to rejection of the welfare career.

Current welfare provisions lack measures that would assist in the elimination of intergenerational welfare dependency and, indeed, actually encourage such dependency by ignoring the availability of non-welfare alternatives for dependent children.

It is therefore in the public interest to amend the welfare laws to eliminate the encouragement of intergenerational welfare dependency and to promote the placement of children in non-welfare environments more conducive to an economically and socially productive adulthood.

SECTION TWO AMENDMENT TO PUBLIC LAW NO. ___________

Section _____ of Public Law No. _____ is hereby amended to add a new subsection _____ as follows:

Subsection ______:

No person shall be eligible to receive benefits under this program by reason of the need of that person to support one or more child dependents unless the administrator *[or agency or other appropriate state official]* has certified, after undertaking diligent efforts, that there are no family members who are fit and willing to provide for the needs of such child without resort to welfare dependency. Such certification shall be required prior to initial entry into the program and, thereafter, upon periodic reviews of eligibility conducted annually.

C. TEENAGE PARENTS - WELFARE ELIGIBILITY

Under the law of each state, parents have an obligation of financial responsibility for their own minor children. If the minor children themselves become parents, these minor parents should continue to be the obligation of their own parents.

Current welfare eligibility rules subvert this basic rule of parental responsibility and create perverse incentives for teenage child bearing. Simply by having a child, federal programs give the teenager an independent income source and relieve the teenager's parents of the obligations imposed by state law.

Under state law, a minor must live with or at the expense of his or her own parents. The birth of a child to that minor should not be a basis for the federal government to override state law. The federal government should not subsidize the establishment of independent households by minors.

If the parents of the minor are already on public assistance, their payments should be governed by the rules applicable to other families experiencing the birth of an additional dependent. If the parents of the minor are a danger to the minor or grandchild, the case should be processed under the normal rules of guardianship used by the state. Again, there is no justification for a federal program which automatically establishes all minors as independent households upon the birth of a baby.

D. DIVORCED FAMILIES - DEPENDENT TAX EXEMPTION

Prior law provided that the dependent exemption for a child of divorced parents was available to the parent providing greater than 50% of the child's support. At that time, it was difficult to determine which parent provided greater than 50% of the support and the law was changed in 1984 to create a presumption that the exemption would be given to the custodial parent. The current law has created some new problems and has not kept pace with federally imposed changes in the establishment of child support orders.

Most divorce litigants do not have lawyers and, even with lawyers, most divorce decrees fail to address the allocation of the dependent tax exemption. Some courts have taken the position that they do not have authority to allocate the exemption to the non-custodial parent even in cases where the custodial parent is unemployed and it is clear that the non-custodian is providing 100% of the child's financial support. Allocating the dependent exemption to a household with no income does not help the child and, in fact, reduces the after-tax income available to support the child.

Recent federal legislation governing the establishment of child support orders has eliminated the uncertainty which motivated the 1984 law regarding allocation of the dependent exemption. In the past, child support orders were subjective, _ad hoc_ determinations that did not identify each parent's share of the child's financial costs. Federal law now requires that each state have a presumptive, mathematical guideline for the establishment of child support. Under the "income shares" model used by most states, the state determines a child's costs and then allocates these costs in proportion to each parent's income. The child support computation formula thus establishes unambiguously which parent provides more than 50% of the child's financial support.

The law should be revised to provide that the dependent exemption shall be allocated to the parent who bears more than 50% of the child's financial support as established by the applicable child support order. To avoid ambiguity and dispute, the taxpayer claiming the exemption could be required to submit a copy of the court order as an attachment to the tax return. Most child support orders are now generated by computers using the state's child support formula and are set forth in a one page computer printout.

E. RESPONDING TO WELFARE FRAUD

In the District of Columbia and in most states, welfare fraud is a no-risk adventure.

If caught, _the standard guilty plea merely requires restitution (sometimes only partial) which is paid out of future welfare benefits!_ Welfare is a disastrously anti-family program in which the government offers itself as a substitute for responsible two-parent family behavior. Welfare fraud multiples the problem by making welfare more lucrative.

Welfare benefits are predicated on the assumption that the welfare recipient cannot earn an outside income and that a government subsidy is required for basic needs. Initially, we accept the applicant's unilateral assertion of this inability to earn an income. In the case of the welfare cheat, however, behavior proves that an income can be earned and the receipt of welfare benefits is simply a theft of benefits that are not needed. Having proved that an income can be earned, the welfare cheat should be disqualified from receiving benefits in the future at least to the extent of the earnings potential that has been demonstrated.

Past enforcement efforts have been backward. The welfare cheat is permitted to quit the unreported job and go back to the dole. The reverse should be true. Having demonstrated earning capacity, the welfare cheat should be disqualified from again asserting an inability to earn income.

In the current economic crisis of budget deficits and soaring welfare rolls, it may finally be possible to impose serious sanctions upon welfare cheaters. The following legislative suggestions are offered:

1. The presence of unreported income means that the welfare cheat either does not need or has less need for welfare. Accordingly, the law should provide that welfare benefits will be reduced or eliminated on a forward-going basis to reflect the income that was being earned during the fraud and thus can be earned in the future.
2. State laws providing for mandatory jail terms of not less than 30 days for all persons convicted of welfare fraud should be required as a condition for a state's receipt of federal funds.
3. State laws providing that conviction for welfare fraud is a sufficient basis to support a judicial finding that it is in the best interests of the child for custody to be placed with another relative should be required as a condition for a state's receipt of federal funds.
4. State laws providing that conviction for welfare fraud is a sufficient basis to support a judicial finding of neglect or abuse so that the child may be placed in foster case should be required as a condition for a state's receipt of federal funds.

Chairman JOHNSON. Thank you. We appreciate your comments. Dr. Berger.

STATEMENT OF BRIGITTE BERGER, PROFESSOR OF SOCIOLOGY, BOSTON UNIVERSITY, BOSTON, MASS.

Ms. BERGER. Thank you very much.

I am a sociologist who has worked in family issues for a long time. I have written a number of books on these issues, including issues of child care, foster care, and the care of handicapped and severely disabled children. I could easily have talked about these issues to this committee. However, the Postal Service's—the Federal Postal Service's Specialty Express Service does not function as well as one would expect. So you have to make do with what I have to say today, which is slightly different from what the charge from the Chair has been.

The purpose of my testimony is to strongly endorse making use of largely unrestricted block grants in the overhaul of the national welfare system and to urge this committee not to fall prey to the fatal error to cast the issue of welfare reform in political and economic terms only.

A large set of data available to us today compels us to recognize that three decades of Federal intervention has resulted in the creation of a new culture of relative dependency at the bottom of American society that is stubbornly resistant to simple administrative and economic measures. It is therefore of singular importance, to my mind, to recognize that welfare today is threatened by the cultural dimensions of welfare dependency; and if you wish to make a dent in the, by now, deeply entrenched welfare culture, you will have to make use of culture-changing measures.

Block grants, in my opinion, offer a first and perhaps only available mechanism. In my written testimony, I provide the more detailed rationale that has led me to this conclusion.

I have first reviewed the data that show how we have gotten ourselves into this welfare mess. And while I do not wish to throw aspersions around—we all have to share blame together—there is no doubt in my mind that the phenomenal explosion of welfare rolls coincides precisely with the plethora of grants and programs that Federal intervention has dispensed.

The second point, then, which I am addressing, is why is that so in spite of the enormous amounts of money we have spent on these issues. And here I have come to a conclusion, which is as simple as it is straightforward.

I do think that Federal programs have unintentionally circumvented precisely those social mechanisms and factors which make for the spontaneous growth of a productive culture. As you can see, I take culture very seriously; and again in my testimony I take some pains to spell out how culture functions and, in particular, how in the absence of what I call "the mediating institutions" of the family, neighborhood and ethnic organizations, and the churches—the American welfare population has been deprived of its most important help.

The next point which I am trying to make here is that with the wisdom of hindsight we cannot help but come to the conclusion that Federal efforts have largely served as conduit and reinforcement of the dysfunctional social norms leading to the consolidation of a dysfunctional welfare culture, which we are now called upon to address.

Now, how do we get out of this mess? And that is the next point which I am spelling out in my detailed presentation you have before you.

I think it is important to recognize there are no easy panaceas. Once the social fabric has been torn, there is very little the government, at any level, can do but prevent the worst from happening. If there is any hope for turning the present situation around, we are obliged to return to precisely those ground level mechanisms that have proven to be useful in providing structure and meaning to individual life—the family, the community, and religion.

I have written a lot about the role of the family. And everything I have heard so far at these hearings confirms my own findings that the past welfare practices have conveniently bypassed the family. It is only very recently that we have rediscovered the family, and then only by trying to superimpose all kinds of restrictions on its normal functioning. Nonetheless, it is very important that we recognize as well that the present welfare population—mostly women and children, single women and children—cannot help themselves and need some kind of support. What kind of support? Community support, voluntaristic, spontaneous groups that exist in every community, the support of the churches.

Now, I want to come to an end very quickly. I spell this out, if and how it can be done. The most critical point which I make in my testimony is this connection, one that I know will raise a lot of problems to this committee, is that I wish to urge that block grant mechanisms will allow religion to do its good work as it has done in the past. I know that I am getting into conflict with the first amendment and the way it has been interpreted since the sixties. I do think we can reverse some of these questions and problems by returning welfare to the State level. On the local level, where everyone is involved, these issues will have to be sorted out in a responsible manner. I have no doubt that all citizens can do that.

[The prepared statement follows:]

Brigitte Berger
Professor of Sociology
Boston University

Testimony before the House Ways and Means Committee - January 23,1995

Re **Block Grants**

Mr Chairman, Members of the Committee Permit me to thank you for the opportunity to testify before this Committee I am here today in a dual capacity first as a sociologist located at Boston University, who has worked and written on issues relating to the social institution of the family and the community, and second, as a member of the Advisory Board of the Massachusetts based Pioneer Institute, an independent, nonprofit research organization funded by individuals, corporations, and foundations While I cannot officially speak for this Institute, I know that my thinking reflects that favored by it

The purpose of my testimony is to strongly endorse the making use of largely unrestricted block grants in the overhaul of the national welfare system and to urge this Committee not to fall prey to the fatal error to cast the issue of welfare reform in political and economic terms only. A large set of data available today compells us to recognize that three decades of federal interventionism has resulted in the creation of a new culture of welfare dependency at the bottom of American society that is stubbornly resistant to simple administrative and economic measures. It is therefore of singular importance for us to recognize that welfare today is driven by cultural dimensions of welfare dependency. If we wish to make a dent in the by now deeply entrenched and continually spreading welfare culture we will have to make use of culture-changing measures. Block grants, in my opinion offer us the first, and perhaps only available mechanism, for getting the country out of the current welfare mess.

The frightening statistics on factors making for the phenomenal rise of the welfare rolls - illegitimacy, teenage motherhood, single parenthood, delinquency, crime and substance abuse

- are only too well known for me to comment on here. By the same token, it is equally well known that the same period that saw the componential increase of children and women on welfare coincided with the explosion of a plethora of federal child welfare programs - family planning, prenatal and postnatal care, child nutrition, child abuse prevention and treatment, child health and guidance, daycare, Headstart, and many more in addition to the "big three" (AFDC,Medicaid, and Food Stamps). Both individually and collectively most, though not all, of these programs have fallen way short of producing the desired effects. The growing number of children growing up in poverty are not measurably better off today than they were some thirty years ago and all too many seem to be trapped into a life of poverty. Well-intentioned governmental programs appear to have accomplished little more than making child welfare a purview of the federal government, with governmental coffers disgorging ever larger amounts of money, and with no limits in sight.

Time and again it has been demonstrated that this new welfare culture exerts not only an intolerable drain on the national economy, but equally importantly, it is destructive of individual human lives. What is more, the new culture of welfare dependency is morally unacceptable and fraught with perils for the nation's future. While the block-granting mechanism in and by itself cannot provide us with ready-made panaceas, it is a very important first step toward genuine welfare reform.

This line of argumentation, I would propose, is as commonsensical as it is straightforward. Once a culture - that is the ways in which people behave, their values and their lifestyles - has come into existence, it starts to take on a dynamics of its own. And once this has happened, it is extremely difficult to change. If lifestyle changes can be brought about at all, then certainly not by government fiat. The bitter experience of the past decades have brought into start relief the impotence of the federal government for this task. If productive cultural changes could be brought about simply by a combination of good intentions, money, and an active involvement on part of the federal government, then surely the cornucopia of federal programs that have been institutionalized across the country in the course of the past decades should have done the trick. The term "culture" as used in the social sciences, however, though not mysterious is something much more complicated It is the spontaneous production of collective social life arising at the intersection of family, work, and voluntary associations taking place in any society The problem with the existing welfare policies is that they have discouraged precisely these elements vital to the productive functioning of culture to do their work

Permit me to elaborate this argument briefly The welfare dependency culture that has taken roots in the wasteland of America's inner cities is a culture in which the game of social life is played out between isolated individuals at the bottom of society and the large, distant bureaucracies of the welfare state at the top The federal policies of the past decades have bypassed the elements that traditionally mediate between the individual and the distant state, the family and voluntaristic institutions, such as informal neighborhood and ethnic associations and the churches In the absence of the vital input flowing from these mediating institutions, an anomic culture of dependency has been forged which prevents individuals from developing habits of self-reliance and the capacity to plan for a future independent of government hand-outs, just as it prevents those trapped in it from taking advantage of existing educational and job opportunities It is a culture characterized by fatalistic attitudes and chaotic lifestyles, a culture in which the language of entitlement has replaced the language of responsibility It is contagious and produces a social ethos that stands in direct contradiction to precisely those norms and values that have made for America's strength in the past Contrary to all intentions, the welfare system in its 1960s liberal mode has cut all too many people loose from their familial moorings, has isolated them from communal ties, deprived them of the spiritual and moral guidance of religious institutions and driven them into an existential and psychological dependency on the state

It would be unfair to put the blame for the rise of the new welfare dependency culture on federal intervention policies only Broad and poorly understood shifts in the normative order of society have transformed all segments of twentieth-century America with cataclysmic speed regardless of their location in the social hierarchy Yet despite a general discrediting of traditional virtues, the American middle classes have been able to withstand the most harmful effects of the turbulent 1960s and 1970s. Those living at the bottom of society have not. While massive federal interventionist practices may not have been solely responsible for the creation and diffusion of welfare dependency, it is safe to argue that they certainly were instrumental in giving expression and shape to its formation. Hence it is legitimate to conclude that America's welfare classes are not primarily victims of an unjust economy or a neglectful government. Rather, they are the victims of *both* general shifts in the normative order as well as ill-conceived interventionist efforts, the consequences of which neither the poor nor their welfare mentors expected. With the wisdom of hindsight, it is heartbreaking to observe that these well-intentioned federal efforts largely served as conduit and reinforcement of dysfunctional social norms leading to the consolidation of a dysfunctional welfare culture which we now are called upon to undo.

There are no easy panaceas for achieving this monumental task. Once the social fabric has been torn, there appears to be precious little government can do but prevent the worst from happening. If there is any hope for turning the present situation around, we are obliged to return to those ground-level mechanisms that have a proven track record in providing structure and meaning to individual life, namely the social institutions of the family, the community, and religion.

Let me here say only a few things about the role of the family. Common to all current debates on welfare reform is the rediscovery of the central importance of the traditional family of father, mother, and their children, tied to each other by bonds of mutual affection and obligations, living and striving together while pooling their resources. This rediscovery is fairly recent and it pains me to say that federal policy in its 1960s mode has done more than its share in discrediting the traditional family. Although two-parent families still form about half of the households below the poverty line at any given point in time, they rarely stay in poverty for extended periods, nor do they often show up among the homeless. Children in two-parent families have a better start in life than children from single-parent households where fathers are totally absent or play only a minimal role in their lives. A huge set of data collected over the past decades has led to the insight that welfare dependency, along with a host of other pressing domestic problems such as rampant youth crime and the catastrophic failure of public education, is rooted in profound shifts in both the structure of the American family as well as its moral code Statistics on separation, desertion, divorce, and illegitimate births document the collapse of the two-parent family among the welfare-dependent class More qualitative research points to far-reaching changes in the welfare population relating to the commitment to the family as an institution, attitudes toward work and authority, and the ability to defer gratification Together these shifts have fused into a devastating amalgam of influences with important consequences for the growing number of the persistently poor

How we can turn this situation around is then one of the most pressing questions before the nation The children and women of the welfare dependency class are certainly unable to achieve this on their own, nor will merely punitive governmental policies help those who are too young to help themselves A vast social science literature attests to the capacity of religious and other more informal institutions arising at the level of the community in bringing about changes in the values and behavior of individuals and groups The important role of mediating institutions has been recognized for long Unfortunately, they have frequently been misused by policy experts sitting at distant planning boards The community organization programs designed by the poverty warriors of the 1960s and 1970s may serve as a somber warning of the futility of policies that parachute programs - and their organizers - into communities of which they have little knowledge, while ignoring precisely those institutions that stand at the core of all individual and communal life In divorcing the issue of welfare from the exigencies of family, informal community dynamics as well as from the accepted standards of morality, these 1960s programs merely served to turn welfare into a support system individuals have learned to feel entitled to, irrespective of their lifestyle choices When we turn today once more to local initiatives, we will do well to remember the disastrous history of past efforts that circumvented precisely those forces that alone are able to make for stable and productive community dynamics

There is no question about the necessity for government to protect and provide for children and the weak who cannot rely on those who should be their natural protectors and providers

In the face of the overwhelming evidence from the grim experiences of the past, however, it is more than doubtful that federal bureaucracies located in Washington are up to the task Although it goes without saying, that basic individual rights must be guaranteed and enforced on the national level, decentralizing public power from the federal government and shifting it to smaller units closer to the targeted problems make eminent sense **I think it therefore of great importance that block grants to the states come with as few restrictions as possible.**The precise mix between federal restrictions and mandates, on the one hand, and the discretionary power of individual states, on the other, is still an open question and will have to be carefully worked out Yet one thing is already perfectly clear today federal interference must be kept at a minimum In the absence of any fool-proof recipes for the reduction of the current welfare dependency culture, states must be allowed and encouraged to explore and experiment with initiatives and programs best suited to deal with local, and frequently distinctive problems Only in this manner can efforts be identified that not only hold the potential for changing welfare-dependent behavior and that simultaneously hold the potential for creating dynamics productive of community development

Fears have been voiced in recent weeks that without the protection of federal entitlement legislation the poor will be at the mercy of uncaring states and mean communities Such fears sound hollow in the face of strong evidence to the contrary This nation, more than any other I know, can be rightly proud of its voluntaristic tradition It is this tradition that has made for America's strength and uniqueness An extraordinary degree of compassion, of responsibility, and tolerance continues to thrive today in all sectors of American society from coast to coast Not to provide considerable discretionary powers to the states, would, from the perspective I aargue here,, severely defeat the very purpose of the block grant initiative Most important, such federal restrictions would in all likelihood interfere with the culture-building dynamics needed for achieving genuine and lasting welfare reform

My recommendation that block granting should not be burdened by undue federal restrictions is further informed by the recognition of the important role religion plays in the transformation of individual values and behavior We know from the data available to us -

and our experience reinforces this knowledge - that nothing can compete with religion in effecting lasting changes in the behavior of individuals. The utilization of religion to this end, however, runs directly counter to the highly secularist interpretation of the First Amendment that has been favored by the courts since the early 1960s. While nothing is further from my mind than to argue for some new establishment of religion by the state, I think it of some importance to ensure that the law does not inhibit states from making use of the guidance and sustenance-providing capacity of the very institution central to the life of most Americans. The historical evidence of the role religious institutions have played in incorporating generations of poor and destitute people into the mainstream of American society is too well known to this gremium to be trotted out once more.

My recommendation that also present-day federal legislation should not unduly interfere with the opportunity to make use of religion's behavior-changing and culture-building potential will, undoubtedly, lead to a major political battle. The fate of America's welfare population, however, demands immediate action and cannot wait for the outcome of prolonged disputes. Unrestricted block grants to the states, I would argue, allow for a renewed deliberation and sorting out of church-state issues in more manageable settings. On the basis of all we know, we have good reason to hope that the responsible and compassionate citizens of all states of the Union will arrive at formulas that will not deprive today's poor of the benefits of religion in their search for a purposeful and meaningful life.

My support of block grants then is informed by considerations among which the identification of mechanisms that promise productive changes in the current culture of welfare dependency figures prominently. Converting the present federally financed and organized welfare system into unrestricted block grants to the states is the necessary first step in the reversal of a situation in which federal policies designed to aid the poor have unintentionally turned welfare into an institution that feeds on itself. For genuine welfare reform to occur, however, individual states, in turn will have to carry the task of reform yet one step further. A number of states currently working under waivers, have already explored new and promising ways to achieve welfare reform. All states of the Union, I finally would recommend, should be obliged to reach out to municipalities, to businesses, and to private groups in their respective states in order to encourage initiatives of scale consonant with the distinctive needs of their welfare population. Common sense leads us to believe - and the research data confirm it - local and ethically inspired initiatives are our single best hope to bring about the much needed welfare reforms.

Chairman JOHNSON. Thank you very much, Dr. Berger.
Ms. Driver.

STATEMENT OF CORINNE DRIVER, DIRECTOR, NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS; ACCOMPANIED BY CHARLES COOPER, ADMINISTRATOR, CITIZEN FOSTER CARE REVIEW BOARD, STATE OF MARYLAND

Ms. DRIVER. Honorable hungry Congresspeople, thank you for including citizen volunteers in your discussions. I am Corinne Driver, a volunteer and unsalaried executive director of the National Association of Foster Care Reviewers, a nonprofit organization which promotes citizen review for every child removed from home by the State.

Children play with blocks. Blocks must not play with children. This statement explains citizen review, an existing, dynamic, cost-effective, community-based monitoring system, in which citizens review every child removed from home; promotes ongoing, periodic, independent review for all children in placement; recommends that volunteers can carry out those reviews cost-effectively; suggests that trained, experienced citizens should be empowered to share in holding their tax supported public systems accountable; suggests the 427s made a difference, even though they were woefully inadequate; and recommends that Congress must hold public systems to standards of good case practice and must maintain penalties.

With me is Charles Cooper, administrator of the Maryland Citizen Foster Care Review Board. Charlie represents more than 400 Maryland volunteer citizen reviewers supported by 25 staff. Maryland reviewers conducted nearly 11,000 reviews of individual foster children last year. Nationally, in 1992, 3,500 volunteers reviewed case plans for over 50,000 children.

Before 427 reviews, States did not even know how many children were in their care. States did not have data on children in care. Children were lingering longer in the system than necessary. Costly for the State, yes, but what about the cost to the child? Before citizen review came to New Jersey, which is my home State, the agency was responsible for about 13,000 children. They were not sure. When citizen review came into being 3 years after that, the caseload had dropped to 6,500. Expediting children out of the system saves money.

Citizen review boards exist by virtue of State law or judicial mandate, and usually consist of five trained citizens. I am representing those citizens who can tell of children like Maria, for whom the agency plan was return to her father until she told my review board that for the second time she was carrying her father's child.

Constituents can tell you of children whose biggest problem is bureaucratic policies within the very systems that are supposed to be helping, systems supported by our own tax dollars. If the policy of block granting is to bring decisionmaking closer to home, who better than citizens from home to require accountability?

Citizen review boards examine plans and results for each child in placement. Citizen review boards achieve hands-on accountability for each child, give citizens responsibility for fellow citizens, remove vested interests from foster care decisionmaking, create a window into and offer accountability for the workings of taxpayer-supported public systems, and empower knowledgeable citizens to work toward improving those systems.

As a trained citizen reviewer under an oath of confidentiality, I went to Newark, N.J., weekly to review confidential records and plans for children and to talk with children, parents, foster parents and caseworkers. We studied the caseworkers' confidential file and previous court rulings. We told them our job was advisory and that our focus was to move children out of foster care and into permanent homes as quickly as possible.

Our periodic reviews often revealed lack of progress, sometimes because no caseworker had been assigned. Often, work on the case began just before our periodic review. Amazing. Often citizen review has impacted on a constipated adoption system where children get stuck.

In Nebraska, home of Boys Town, three separate studies have confirmed that a child is twice as likely to be adopted if the child is being monitored by a citizen review board. Think of the money that saves.

Wade Horn has already cited a Kansas example, and that saves money, too.

Despite imperfect 427s, it was remarkable, as reviewers watched their States take notice of foster care caseloads when their actions were subject to scrutiny and their dollars were on the line. It was wonderful as we watched 427 monitoring enlighten courts about their responsibilities to the foster care population. But bringing decisionmaking closer to home means we must bring monitoring closer to home.

Block grants must build in accountability. The intent and clout of the 427 reviews should be maintained.

I urge you, continue to protect children by requiring independent individual case reviews.

Incorporate in block grant philosophy standards, expectations and accountability for results. Maintain the ability to withhold funding based on documented results. Require States to put in place a strong independent cost-effective monitoring mechanism using trained volunteers, and assign block grant support directly to that monitoring mechanism to assure its independence.

Thank you.

[The prepared statement follows:]

STATEMENT TO THE WAYS & MEANS COMMITTEE
JANUARY 21, 1995

THIS TESTIMONY IS SUBMITTED BY CORINNE DRIVER, A VOLUNTEER AND UNSALARIED EXECUTIVE DIRECTOR OF THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS, (NAFCR), A NON-PROFIT ORGANIZATION WHICH PROMOTES THE ACCOUNTABILITY MECHANISM OF CITIZEN REVIEW FOR EVERY CHILD REMOVED FROM HOME BY THE STATE.

CHILDREN PLAY WITH BLOCKS. BLOCKS MUST NOT PLAY WITH CHILDREN.

THIS STATEMENT:

- PROMOTES CONTINUING THE PERIODIC INDEPENDENT REVIEW FOR ALL CHILDREN IN PLACEMENT
- SUPPORTS THE INTENT OF 427 REVIEWS
- SUGGESTS THE 427s MADE A DIFFERENCE EVEN THOUGH THEY WERE WOEFULLY INADEQUATE
- RECOMMENDS THAT MONITORING AND PENALTIES MUST BE MAINTAINED WHETHER TITLE IVB AND IVE MONIES ARE BLOCK GRANTED OR NOT
- PROMOTES THE NEED FOR STANDARDS, OVERSIGHT AND ACCOUNTABILITY FOR EXPENDITURE OF TAX DOLLARS
- RECOMMENDS A COST EFFECTIVE MECHANISM, BASED 90% ON VOLUNTEER POWER, TO CARRY OUT THE INTENT OF THE 427 REVIEWS AND PROVIDE THE FEDERAL GOVERNMENT WITH INFORMATION UPON WHICH TO EVALUATE STATE'S ADHERENCE TO PRESCRIBED PROTECTIONS FOR CHILDREN
- EXPLAINS CITIZEN REVIEW, AN EXISTING, DYNAMIC, COST EFFECTIVE COMMUNITY BASED MONITORING SYSTEM IN WHICH TAXPAYING CITIZENS REVIEW EVERY CHILD REMOVED FROM HOME
- RECOMMENDS PROMULGATION TO ALL STATES OF INDEPENDENT, COST EFFECTIVE CITIZEN REVIEW
- RECOMMENDS EMPOWERMENT OF CITIZENS TO HOLD PUBLIC SYSTEMS ACCOUNTABLE BY BLOCK GRANTING DIRECTLY TO STATE CITIZEN REVIEW SYSTEMS
- RECOMMENDS ASSURING QUALITY CONTROL OF CASE BY CASE DATA GATHERING AND EXCELLENT TRAINING OF VOLUNTEERS BY A BLOCK GRANT TO THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS

* * *

WHY DOES CURRENT LAW REQUIRE INDEPENDENT REVIEW OF CHILDREN IN PLACEMENT? BECAUSE:

- STATES DID NOT EVEN KNOW HOW MANY CHILDREN WERE UNDER THEIR CARE
- STATES DID NOT HAVE DATA ON CHILDREN IN CARE
- CHILDREN WERE LINGERING IN THE SYSTEM FAR LONGER THAN NECESSARY--COSTLY FOR THE STATE? YES--BUT WHAT ABOUT THE COST TO THE CHILD!

WITHOUT STANDARDS, INDEPENDENT MONITORING AND FISCAL PENALTIES AND/OR INCENTIVES BUILT INTO BLOCK GRANTS IT IS PROBABLE THAT CHILDREN WILL ONCE AGAIN LANGUISH IN CARE AND CASELOADS INCREASE.

WHEN CITIZEN REVIEW BOARDS BEGAN IN NEW JERSEY IN 1979, ALMOST 10% OF CASES REVIEWED BY MY REVIEW BOARD WERE CHILDREN WHO HAD BEEN IN CARE THEIR WHOLE LIVES--INCLUDING MANY CHILDREN OVER 16 YEARS OLD. MANY OF THOSE CHILDREN HAD BEEN SHUFFLED FROM PLACE TO PLACE BY THE SYSTEM. ONE CHILD HAD OVER 30 DIFFERENT PLACEMENTS!

CITIZEN REVIEW BOARDS
A DESCRIPTION OF HOW THEY WORK

A PRIMARY GOAL OF NAFCR IS TO PROMOTE CITIZEN FOSTER CARE REVIEW BOARDS, A COST EFFECTIVE, CITIZEN BASED ACCOUNTABILITY MECHANISM FOCUSED ON CHILDREN IN PLACEMENT.

WHAT IS A CITIZEN REVIEW BOARD? CITIZEN REVIEW BOARDS EXIST BY VIRTUE OF STATE LAW OR JUDICIAL MANDATE AND USUALLY CONSIST OF FIVE TRAINED CITIZENS. CITIZEN REVIEW BOARDS EXAMINE PLANS AND RESULTS FOR EACH CHILD IN PLACEMENT. CITIZEN REVIEW BOARDS:

a. ACHIEVE HANDS ON ACCOUNTABILITY FOR EACH CHILD
b. GIVE CITIZENS RESPONSIBILITY FOR FELLOW CITIZENS
c. REMOVE VESTED INTEREST FROM FOSTER CARE DECISION MAKING
d. CREATE A WINDOW INTO AND OFFER ACCOUNTABILITY FOR THE WORKINGS OF TAXPAYER SUPPORTED PUBLIC SYSTEMS
e. EMPOWER KNOWLEDGEABLE CITIZENS TO WORK TOWARD IMPROVING THOSE SYSTEMS

TO EXPLAIN CITIZEN REVIEW I WILL USE MY OWN EXPERIENCE. AS A CITIZEN REVIEWER I WENT TO NEWARK NJ WEEKLY FOR OVER A DOZEN YEARS TO REVIEW CONFIDENTIAL RECORDS AND PLANS FOR CHILDREN AND TO TALK WITH CHILDREN, PARENTS, FOSTER PARENTS, AND CASEWORKERS. AFTER BEING TRAINED AND TAKING AN OATH OF CONFIDENTIALITY, MY FOUR FELLOW BOARD MEMBERS AND I BECAME A BOARD THAT REFLECTED THE SOCIO-ECONOMIC, CULTURAL, ETHNIC MAKE UP OF OUR COUNTY.

WE STUDIED THE CASEWORKER'S CONFIDENTIAL CASE FILE; PREVIOUS COURT RULINGS; CONFIDENTIAL PSYCHIATRIC, MEDICAL, AND POLICE REPORTS INCLUDING PICTURES OF BATTERED CHILDREN. WE EXPLAINED TO THE PARTIES IN EACH CASE THAT OUR JOB WAS ADVISORY, THAT OUR FOCUS WAS TO MOVE CHILDREN OUT OF FOSTER CARE AND INTO PERMANENT HOMES AS QUICKLY AS POSSIBLE AND THAT WE WERE VOLUNTEERS FROM THEIR COMMUNITY. AFTER TAKING TESTIMONY FROM ALL PARTIES, WE DISCUSSED, OFTEN DEBATED AND DEVELOPED RECOMMENDATIONS TO THE CASEWORKERS AND TO THE COURT. IT IS NOT ALWAYS EASY OR OBVIOUS TO DETERMINE THE MOST APPROPRIATE PLACEMENT PLAN FOR A CHILD.

MANY TIMES MY BOARD WAS ABLE TO REINFORCE A CASEWORKER WHO WAS GETTING NO COOPERATION FROM A RECALCITRANT PARENT OR NO ACCESS TO A JUDGE. MANY TIMES MY BOARD AMPLIFIED OR DISAGREED WITH THE AGENCY'S CASE PLAN. THIS DOES NOT MEAN THAT REVIEW BOARDS ALWAYS ASSUME AN ADVERSARIAL ROLE. OFTEN A CASEWORKER WOULD COME BEFORE US AND SAY "AGENCY POLICY REQUIRES THIS BUT I THINK SOMETHING ELSE WOULD BE BETTER FOR THAT CHILD SO PLEASE CONSIDER THAT AS YOU DEVELOP YOUR RECOMMENDATION".

OUR EXISTENCE AS A MONITORING PRESENCE ASSURED THAT CHILDREN IN OUR CASELOAD WOULD NOT END UP ON THE BOTTOM OF SOMEONE'S PILE OF CASES, NEVER TO SURFACE, THEREFORE NEVER TO BE SERVED, THEREFORE TO SPEND AN ENTIRE CHILDHOOD IN SUBSTITUTE CARE. OUR PERIODIC REVIEWS REVEALED PROGRESS OR LACK OF PROGRESS PARENTS WERE MAKING AND WHETHER CHILDREN COULD RETURN SAFELY HOME. TOO OFTEN NO ONE HAD MADE PROGRESS BECAUSE NO CASEWORKER WAS ASSIGNED. THAT USUALLY WAS DUE TO CASEWORKER TURNOVER OR CIVIL SERVICE AND BUDGETARY POLICIES. THE NECESSITY OF HAVING PERIODIC REVIEW IS DEMONSTRATED BY THE FREQUENCY WITH WHICH AGENCY WORK ON THE CASE PLAN DID NOT

BEGIN UNTIL LONG AFTER THE PLAN WAS MADE AND, COINCIDENTALLY, JUST BEFORE OUR PERIODIC REVIEW WAS SCHEDULED TO TAKE PLACE.

CITIZEN REVIEW OPENS A WINDOW TO ALL THOSE SERVICES, AGENCIES AND SYSTEMS THAT IMPACT ON A CHILD DEPENDENT ON THE STATE AS PARENT. WE HAVE LEARNED OF THE TREMENDOUS BURDEN OUR PROTECTIVE SERVICE SYSTEM PLACES ON CASEWORKERS AND OF CASEWORKERS' STRUGGLES TO HELP PEOPLE. AND WE HAVE LEARNED OF LITTLE THINGS--IRRITANTS THAT TAKE THEIR TOLL FINANCIALLY IF NOT EMOTIONALLY. IMAGINE BEING A PROTECTIVE SERVICE WORKER WALKING INTO A HOME AND, IN THE NAME OF SAFETY, TAKING A CHILD AWAY FROM THAT HOME OVER PROTESTATIONS OF PARENTS AND CHILD. WHEN YOU RETURN TO YOUR CAR WITH THE CHILD YOU FIND A PARKING TICKET ON YOUR CAR WHICH THE CITY WILL NOT FORGIVE. ADD INSULT TO INJURY AND ADD PARKING TICKETS TO THE AGENCY BUDGET. REVIEW BOARDS BEAMED QUITE A BIT OF LIGHT ON THAT PART OF THE BUDGET.

WE HAVE BEEN SHOCKED TO OBSERVE HOW OFTEN, IN SO MANY CASES, SERVICES AND AGENCIES FAIL CHILDREN AND FAMILIES. WE HAVE OBSERVED HOW SYSTEMS THAT ARE NOT WORKING FOR CHILDREN, TRAP CHILDREN IN THOSE SYSTEMS.

STATE CITIZEN ADVISORY BOARDS ARE ALSO A PART OF THE CITIZEN REVIEW SYSTEM. THE STATE BOARDS ELEVATE PRACTICAL KNOWLEDGE OF REVIEWERS AND DOCUMENTATION BY REVIEW BOARDS TO THE LEVEL OF RAISING QUESTIONS OF POLICY, PRACTICE AND PROCEDURE. STATE BOARDS ARE AN INDEPENDENT BODY MADE UP OF VOLUNTEERS, MOSTLY CITIZEN REVIEWERS, FROM JURISDICTIONS THROUGHOUT THE STATE. ADVISORY BOARDS GENERALLY ASK CITIZEN REVIEWERS TO DOCUMENT SYSTEMS BARRIERS IN EACH CASE THEY REVIEW. ADVISORY BOARDS MAKE RECOMMENDATIONS ANNUALLY TO THE LEGISLATURE, GOVERNOR AND SUPREME COURT OF THAT STATE. THEIR INDEPENDENCE ALLOWS THEM TO DIRECT RECOMMENDATIONS TO ANY PART OF THE SYSTEM.

A FEW EXAMPLES OF CITIZEN REVIEW AT WORK

CITIZENS CAN TELL YOU OF CHILDREN LIKE MARIA FOR WHOM THE AGENCY PLAN WAS RETURN TO HER FATHER--UNTIL SHE TOLD MY REVIEW BOARD THAT, FOR THE SECOND TIME, SHE WAS CARRYING HER FATHER'S CHILD. CITIZENS CAN TELL YOU OF FINDING RELATIVES THE AGENCY COULD NOT FIND OR DID NOT KNOW EXISTED. MY BOARD REVIEWED A FAMILY OF SIX CHILDREN WHO WERE SCATTERED IN FOUR DIFFERENT PLACEMENTS BECAUSE THEIR MOTHER WAS UNABLE TO PAY RENT. OUR INTERACTION WITH PARTIES WE INTERVIEWED RESULTED IN FINDING THE "LOST" FATHER WHO AGREED TO MAKE MONTHLY RENT PAYMENTS FOR HIS FAMILY OUT OF HIS LUCRATIVE TRUCK DRIVING JOB. THE STATE SAVED THE COST OF SIX FOSTER CARE PLACEMENTS.

CITIZENS CAN CITE MYRIADS OF CASE EXAMPLES DEMONSTRATING THAT ONE OF THE BIG PROBLEMS SOME CHILDREN FACE IS BUREAUCRATIC POLICIES WITHIN THE VERY SYSTEMS THAT ARE SUPPOSED TO BE HELPING CHILDREN.. SYSTEMS SUPPORTED BY OUR OWN TAX DOLLARS.

BEFORE CITIZEN REVIEW CAME TO NEW JERSEY THE AGENCY WAS RESPONSIBLE FOR ABOUT 13,000 CHILDREN IN PLACEMENT. THEY WERE NOT SURE. THREE YEARS AFTER CITIZEN REVIEW, THE CASELOAD HAD DROPPED TO 6,500 DOCUMENTED CHILDREN. OTHER STATES ALSO REPORT DRAMATIC DROPS IN CASELOAD AFTER CITIZEN REVIEW BOARDS WERE INTRODUCED. THINK OF THE MONEY SAVED!

MARYLAND CITIZEN REVIEW BOARDS HAVE REVIEWED CHILDREN IN PLACEMENT FOR OVER FIFTEEN YEARS. 400 MARYLAND VOLUNTEER CITIZEN REVIEWERS ARE SUPPORTED BY 25 STAFF. MARYLAND CITIZEN REVIEWERS CONDUCTED NEARLY 11,000 REVIEWS OF

INDIVIDUAL FOSTER CHILDREN LAST YEAR. THERE IS A COST TO ADMINISTERING CITIZEN FOSTER CARE REVIEW--IN MARYLAND EACH REVIEW COSTS ABOUT EIGHTY DOLLARS ($80). IN JUXTAPOSITION TO THIS FIGURE IS THE FACT THAT THE AVERAGE ANNUAL COST IN MARYLAND OF KEEPING A CHILD IN FOSTER CARE IS $20,000. IF A CHILD IS REMOVED FROM THE SYSTEM ONE MONTH EARLIER BECAUSE OF REVIEW BOARD MONITORING, THE STATE SAVES ABOUT $1,400 IN THAT MONTH.

IOWA HAS DOCUMENTED THAT CHILDREN WITH REVIEW BOARDS WERE DISCHARGED FROM FOSTER FAMILY CARE 90 DAYS EARLIER AND FROM GROUP FOSTER CARE 29 DAYS EARLIER THAN THOSE WITHOUT REVIEW BOARDS. THESE ARE SAVINGS OF 1.5 AND 1.7 MILLION DOLLARS RESPECTIVELY. IOWA HAS ALSO DOCUMENTED THAT ADOPTION OF CHILDREN WITH REVIEW BOARDS WAS ACHIEVED 453 DAYS SOONER AT A PER CHILD COST SAVINGS OF $9,500 TO $34,000.

NATIONALLY, IN 1992, **3,500 VOLUNTEERS** REVIEWED CASE PLANS FOR OVER **50,000 CHILDREN** PLACED OUTSIDE OF THEIR HOMES. CURRENTLY NAFCR DOES NOT HAVE THE CAPACITY TO DOCUMENT THEIR SUCCESS STORIES ON A CASE BY CASE BASIS AND THEREFORE REPORT THE TOTAL DOLLAR SAVINGS. THE COST EFFECTIVENESS WOULD BE AMPLIFIED IF ONE WERE TO ASCRIBE A PER HOUR DOLLAR VALUE FOR EVERY HOUR OF VOLUNTEER TIME DONATED ON BEHALF OF CHILDREN.

KEEP THE PROTECTIONS, KEEP THE OVERSIGHT

CHILDREN IN PUBLIC SYSTEMS MUST BE PROTECTED. PL96:272 SPECIFIES SEVERAL PROTECTIONS THAT NOW APPLY TO BOTH TITLE IV-B AND IV-E PROGRAMS. THIS INCLUDES PERIODIC, INDEPENDENT MONITORING OF EVERY CHILD. THESE PROTECTIONS WERE ENUMERATED BECAUSE THEY WERE NOT BEING PRACTICED. THESE PROTECIONS MUST BE MAINTAINED AS PART OF BLOCK GRANTS. BLOCK GRANTS SHOULD MAINTAIN OVERSIGHT FOR ACCOUNTABILITY AND CONGRESS SHOULD HOLD STATES ACCOUNTABLE BY IMPOSING PENALTIES FOR FAILING TO MEET THE STANDARDS OF PROTECTION.

OUR EXPERIENCE AS CASE REVIEWERS HAS DEMONSTRATED THE IMPORTANCE OF REVIEWS IN GETTING TREATMENT FOR ABUSED AND NEGLECTED CHILDREN, PREPARING FAMILIES FOR THEIR CHILDREN'S RETURN, AND, WHERE APPROPRIATE, PUSHING AGENCIES TO FREE CHILDREN FOR ADOPTION. IT IS ESSENTIAL THAT THE CONGRESS HOLD STATES ACCOUNTABLE FOR PROVIDING THESE IMPORTANT PROTECTIONS FOR CHILDREN.

THE INTENT AND CLOUT OF THE 427s

SHOULD BE MAINTAINED
AND A LESS COSTLY REVIEW MECHANISM SHOULD BE IMPLEMENTED

THE COMMITTEE HEARING ANNOUNCEMENT IMPLIES THAT 427 REVIEWS "IMPOSE A COSTLY AND BURDENSOME WORKLOAD ON THE STATES". CERTAINLY THE REQUIREMENTS OF THOSE REVIEWS ARE PART OF GOOD CASE PRACTICE. TO REDUCE COSTS BY ELIMINATING GOOD CASE PRACTICE WILL IMPAIR THE QUALITY OF SERVICE PROVIDED BY THE AGENCY. CASELOADS WILL CLIMB--COSTS WILL ACCELERATE.

REVIEW REQUIREMENTS IMPOSED UPON THE COURTS HAVE HEIGHTENED THE REALIZATION OF JUDGES THAT THEIR DECISIONS MUST INTERACT WITH CASE PLANS AND CASE MANAGEMENT. THE COURT REQUIREMENTS

OF THE 427 REVIEWS ARE STRONG INCENTIVES FOR COMMUNICATION AND COORDIANTION ABOUT A CHILD BETWEEN CASEWORKERS AND JUDGES. HERE TOO THE REQUIREMENTS ENUMERATE LOGICAL PRACTICE AND SHOULD NOT BE PERCEIVED AS AN EXTRA COST IF THE GOAL IS TO DO THE BEST JOB POSSIBLE FOR THE CLIENT.

PERHAPS THE MOST FALLACIOUS ARGUMENT ABOUT COSTLINESS OF REQUIREMENTS UNDER 427 IS THE FACT THAT, IN MANY STATES THE INDEPENDENT REVIEW ASPECT IS CARRIED OUT COST EFFECTIVELY BY VOLUNTEERS. ALL STATES SHOULD ADOPT THIS MECHANISM AND FREE THEIR PAID AGENCY STAFF TO DO FIELD WORK INSTEAD OF CONDUCTING REVIEWS THAT ARE INTERNAL AND THEREFORE NOT REALLY INDEPENDENT. THE BEST PLAN FOR A CHILD MIGHT BE SACRIFICED TO AGENCY POLICY BY INTERNAL REVIEWERS WHO ARE BOUND BY THE POLICY.

AT THIS TIME ONLY HALF OUR STATES HAVE CITIZEN REVIEW. CONGRESSMAN CARDIN, OF THIS COMMITTEE, INTRODUCED REPORT LANGUAGE IN THE 1994 OMNIBUS BUDGET RECONCILLIATION ACT TO ENCOURAGE EXPANSION OF CITIZEN REVIEW. THE 1995 SENATE APPROPRIATIONS BILL ALSO URGES THE EXPANSION AND TRAINING OF CITIZEN REVIEWERS BY REQUESTING HHS TO ALLOCATE ONE MILLION DOLLARS ($1,000,000) TO NAFCR TO PROMOTE CITIZEN REVIEW AND TRAINING OF CITIZEN REVIEWERS.

THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS RECOMMENDS THAT CONGRESS EMBRACE THE CONCEPTS OF:

CITIZENS CARING FOR CITIZENS

AND

CITIZENS HOLDING THEIR TAX SUPPORTED PUBLIC SYSTEMS ACCOUNTABLE.

THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS RECOMMENDS THAT CONGRESS INCORPORATE IN ITS PROTECTIONS FOR CHILDREN AND FAMILIES, THE REQUIREMENT THAT A CITIZEN FOSTER CARE REVIEW BOARD REGULARLY, PERIODICALLY MONITOR EACH CHILD. AS LONG AS THAT CHILD IS IN THE PLACMENT SYSTEM.

IF THE POLICY OF BLOCKGRANTING IS TO BRING DECISION MAKING TO STATES, WHO IS BETTER ABLE THAN CITIZENS OF THE STATE TO HOLD THEIR OWN STATES ACCOUNTABLE? WHO CAN BETTER DOCUMENT THE REALITIES THAN VOLUNTEERS WITH ACCESS TO THE CONFIDENTIAL WORKINGS OF THEIR PUBLIC SYSTEMS? WHO CAN BETTER MONITOR THAN THOSE WITHOUT VESTED INTEREST. WHO CAN BETTER CALL FOR QUALITY AND ACCOUNTABILITY THAN DEDICATED VOLUNTEERS WHO DONATE THEIR TIME ON BEHALF OF CHILDREN BECAUSE THEY BELIEVE EVERY CHILD SHOULD GROW UP IN A SAFE, PERMANENT HOME?

CITIZEN REVIEW IS A PROVEN COST EFFECTIVE MECHANISM BASED 90% ON VOLUNTEER EFFORT.

CITIZEN REVIEW BRINGS OUT THE VOLUNTEER SPIRIT AND OFFERS THE COMMUNITY A WAY OF HELPING CHILDREN AND FAMILIES. CITIZEN REVIEW HAS DEMONSTRATED THAT THERE ARE LARGE NUMBERS OF PEOPLE WILLING AND CAPABLE OF VOLUNTEERING AS A REVIEWER.

IN THE LAST FIFTEEN YEARS, THE EXPERIENCE OF REVIEWERS REINFORCES THE NOTION THAT WE MUST OPEN MORE WINDOWS ONTO OUR PUBLIC SYSTEMS IF WE ARE TO KNOW HOW THEY ARE REALLY WORKING. BLOCK GRANTS OFFER AN OPPORTUNITY FOR CITIZENS TO BECOME INVOLVED WITH THEIR FELLOW CITIZENS, TO IDENTIFY WASTEFUL BUREAUCRATIC PRACTICES, TO IDENTIFY NEEDED COMMUNITY

SERVICES, TO OBSERVE THEIR TAX DOLLARS AT WORK AND TO PRESENT THEIR LEGISLATURES WITH UNBIASED FACTS.

WE RESPECTFULLY SUGGEST CITIZEN REVIEW SHOULD BE PROMOTED WHETHER TITLES IVB & E ARE BLOCK GRANTED OR NOT.

CITIZEN REVIEW AND THE ADOPTION SYSTEM

SOME EXAMPLES OF THE COST EFFECTIVENESS AND VALUE OF ONGOING CITIZEN REVIEW AS IT IMPACTS ON ADOPTION FOLLOW.

CITIZEN REVIEWERS HAVE LEARNED THAT IN STATE AFTER STATE THE ADOPTION SYSTEM IS OFTEN ILL--IT IS CONSTIPATED--THE CHILDREN GET STUCK.

△ IN NEBRASKA, HOME OF THE PLACEMENT FACILITY BOYSTOWN, THREE SEPARATE STUDIES BY DR. ANN COYNE HAVE CONFIRMED THAT A CHILD IS TWICE AS LIKELY TO BE ADOPTED IF THE CHILD IS BEING MONITORED BY A CITIZEN REVIEW BOARD. THINK OF THE MONEY SAVED.

△ ADOPTIONS REQUIRE COURT PROCEEDINGS. A STUDY OF THE EFFECT OF CITIZEN REVIEW BOARDS IN KANSAS INDICATED THAT CONTINUANCE OF CASES BY THE COURT WERE REDUCED BY TWO THIRDS WHEN THE CASES WERE SUBJECT OF A CITIZEN REVIEW. THINK OF THE MONEY SAVED.

△ IN MARYLAND, AFTER CITIZEN REVIEWERS BEGAN TRACKING MILESTONES AND ADVOCATING SYSTEMATICALLY, THE NUMBER OF CHILDREN ADOPTED ROSE 50% AND ADOPTION DELAYS FELL 29%. THINK OF THE MONEY SAVED.

427 REVIEWS, ACCOUNTABILITY AND SANCTIONS

WE URGE YOU TO INCORPORATE IN BLOCK GRANT PHILOSOPHY ACCOUNTABILITY FOR RESULTS IN EACH STATE. THE GRANTS THEMSELVES SHOULD HAVE CLEARLY DEFINED, HIGH STANDARDS AND EXPECTATIONS ALONG WITH A SCHEDULE OF DOLLAR PENALTIES AND/OR REWARDS. CONGRESS SHOULD REQUIRE STATES TO ESTABLISH THE MONITORING MECHANISM OF CITIZEN REVIEW THAT WILL DOCUMENT ADHERENCE TO THE STANDARDS. WITHOUT SUCH AN ACCOUNTABILITY MECHANISM, HOW WILL STATE LEGISLATURES OR CONGRESS KNOW WHAT THEY ARE GETTING FOR THEIR BLOCK GRANTED DOLLARS.

AGENCIES RESPOND TO FISCAL SANCTIONS. REVIEW BOARDS OBSERVED THAT THE POSSIBILITY OF SANCTIONS WAS EXTREMELY EFFECTIVE IN FORCING STATES TO PAY ATTENTION TO THEIR FOSTER CARE CASELOAD--BECAUSE TITLE IVB AND IVE DOLLARS WERE AT STAKE.

FEDERAL 427 REVIEWS WERE POORLY CARRIED OUT AND DID NOT RELATE TO QUALITY. THIS IS NOT A CONDEMNATION OF THE DEDICATED STAFF IN THE CHILDREN'S BUREAU WHO ARE SKILLED PROFESSIONALS STRETCHED FAR TOO THIN. THEY DID WHAT THEY COULD.

DESPITE THE INADEQUACY OF THE 427 REVIEWS--

△ IT WAS REMARKABLE HOW STATES TOOK NOTICE OF THEIR FOSTER CARE CASELOADS WHEN THEIR ACTIONS WERE SUBJECT TO SCRUTINY AND THEIR DOLLARS WERE ON THE LINE.

△ IT WAS WONDERFUL TO OBESERVE THE EFFECT OF 427 MONITORING IN ENLIGHTENING COURTS ABOUT THEIR RESPONSIBILITES TO THE FOSTER CARE POPULATION

BUT 427 REVIEWS WERE TOO FAR REMOVED FROM CHILDREN TO REQUIRE ACCOUNTABILITY FOR CARRYING OUT THE PROTECTIONS OF THE LAW FOR THAT CHILD. BRINGING DECISION MAKING CLOSER TO HOME MEANS WE MUST BRING MONITORING AND ACCOUNTABILITY CLOSER TO HOME. CONGRESS MUST MAINTAIN THE ABILITY TO IMPOSE SANCTIONS BASED, AT LEAST IN PART, ON DOCUMENTATION RESULTING FROM HANDS ON MONITORING.

WE URGE THE CONGRESS TO:

△ CONTINUE TO PROTECT CHILDREN BY REQUIRING CASE BY CASE REVIEWS.

△ REQUIRE STATES TO PUT IN PLACE A STRONG, INDEPENDENT, COST EFFECTIVE MONITORING MECHANISM USING TRAINED VOLUNTEERS.

△ BLOCK GRANT SUPPORT FOR THAT MONITORING MECHANISM DIRECTLY, TO ASSURE ITS INDEPENDENCE.

△ REQUIRE STATE CITIZEN ADVISORY BOARDS TO REPORT ANNUALLY THEIR DATA AND RECOMMENDATIONS TO THE LEGISLATURE, SUPREME COURT, AND GOVERNOR.

△ UTILIZE CITIZEN REVIEW DATA AS AN ASSISTANCE AT THE FEDERAL LEVEL TO REQUIRE COMPLIANCE WITH THE PROTECTIONS OF THE LAW THROUGH FISCAL PENALTIES AND/OR INCENTIVES.

FUNDING THE ACCOUNTABILITY MECHANISM OF CITIZEN REVIEW

NAFCR RECOMMENDS BUILDING IN THE ACCOUNTABILITY MECHANISM OF CITIZEN REVIEW AS A COMPANION TO BLOCK GRANTS. IN ORDER TO ASSURE COMPLETE INDEPENDENCE, FUNDING TO SUPPORT CITIZEN REVIEW SHOULD BE BLOCKED DIRECTLY TO THE STATE CITIZEN REVIEW BOARD.

VOLUNTEERS DONATE TIME AND ENERGY AND ARE COST EFFECTIVE BUT, MONITORING BY VOLUNTEERS, OR ANYONE ELSE, WILL BE A SHAM WITHOUT AN INFRASTRUCTURE OF TRAINING, DATA GATHERING ABILITY AND SUPPORT STAFF.

STATE CITIZEN REVIEW BUDGETS ARE LOW. CURRENTLY NO STATE CITIZEN REVIEW PROGRAM HAS A BUDGET EVEN AS HIGH AS $2,000,000 (TWO MILLION DOLLARS).

INCLUDED IN GRANTS TO STATE CITIZEN REVIEW BOARDS WOULD BE THE COSTS OF ESTABLISHING AND MAINTAINING THE DATA COLLECTION ASPECT UPON WHICH ANNUAL REPORTS WOULD BE BASED AND WHICH WILL PROVIDE INFORMATION REQUESTED FOR FEDERAL OVERSIGHT.

THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS WOULD WORK WITH CONGRESS AND HHS IN DETERMINING WHAT DATA REVIEWERS SHOULD DOCUMENT. NAFCR WOULD BE RESPONSIBILE FOR EXCELLENT VOLUNTEER TRAINING TO ASSURE QUALITY OF CITIZEN REVIEW. IT WOULD BE RESPONSIBLE FOR ONGOING AND REMEDIAL TRAINING AND PROVIDE DATA COLLECTION EXPERTISE THAT WILL HELP STATES ASSURE ADHERENCE TO FEDERAL STANDARDS AND PROTECTIONS. IN ORDER TO MAINTAIN AND REINFORCE THE INDEPENDENCE OF CITIZEN REVIEW FROM OTHER GOVERNMENTAL ENTITIES, FUNDING FOR CARRYING OUT THESE RESPONSIBILITIES WOULD BE GRANTED DIRECTLY TO NAFCR.

WELL TRAINED VOLUNTEERS WHO ARE EMPOWERED BY LAW TO FOCUS ON THE BEST INTEREST OF EACH INDIVIDUAL CHILD AND TO HOLD PUBLIC SYSTEMS ACCOUNTABLE BY COMPILING DATA ON A CASE BY CASE BASIS WILL SAVE STATES UNTOLD NUMBERS OF DOLLARS. THE COST OF SUPPORTING THE VOLUNTEER EFFORT WILL BE MINIMAL IN RELATION TO ITS REWARDS OF SAVING PUBLIC DOLLARS AND SAVING CHILDREN FROM GROWING UP AS A WARD OF THE STATE.

THE NATIONAL ASSOCIATION OF FOSTER CARE REVIEWERS URGES ADOPTION OF THE CONCEPT OF CITIZEN REVIEW FOR ALL CHILDREN IN PLACEMENT.

Chairman JOHNSON. Thank you very much, Ms. Driver.

Mr. Cooper.

Mr. COOPER. Of course, we endorse what she said. I am the director of the Maryland Citizen Foster Care Review Board office. We have about 400 volunteers. I would like to make the point in conducting these 11,000 reviews, we make a lot of—we make a lot of difference in the compliance of the agency with the 427 review process, so it is important to us. It gives us the handle we need to have citizens get in there and hold people accountable, and we have results. For example, like Mr. Petit talked about, the reentry rate is 50 percent of the children returned home are back in the system in about 1 year.

Mr. PETIT. Forty.

Mr. COOPER. In Maryland, that is about 16 percent. So we believe we—our review system and other things our State has done has brought more quality to the system than you have when you have merely internal reviews of an agency reviewing itself.

We are involved in system advocacy that addresses what Mr. Henry talked about. For example, our citizen reviewers are supporting and initiating bills in this year's legislature to make sure fathers are identified and contacted and that relatives are brought into the process appropriately. So I think that citizen review really provides some assurance of the quality that the lady from New Jersey, Ms. Barr, talked about. And someone came here from Illinois and talked where they have caseloads, I understand, of 100 children per worker and talked about the disasters of the program. The question is, is it in the program design or is it in some of the quality components that are missing from a State that doesn't have this kind of citizen accountability.

Chairman JOHNSON. Thank you.

I thank the panel for your good input. These citizen review boards, are they required or permitted by 427 reviews or is the 427 law silent on them?

Ms. DRIVER. The establishment of citizen foster care review boards across the country were encouraged by 427s, however, as was mentioned earlier, New Jersey, for example, and Arizona and South Carolina and some other States actually had citizen review before Public Law 96-272 came into being. However, it was a major impetus.

Chairman JOHNSON. Have they spread, then, since 427?

Ms. DRIVER. They have. And about four to five States within the last 2 years, are either adopting it completely or piloting it. But I think that in fact only about half the States currently actually use citizen foster care review boards. And of those that do use them, in every State not every child is reviewed.

Usually, in answer to your question about what creates them, usually it is State law. But otherwise, it is judicial mandates, because citizen review programs sometimes are postured within the courts, sometimes are independent and are postured different places in the system.

Chairman JOHNSON. Thank you very much.

I appreciate that clarification.

Mr. Matsui, would you like to inquire?

Mr. MATSUI. I will be very brief, Madam Chairwoman. I want to thank all six of you for being here today. I appreciate it very much.

One of the problems—and I wish Mr. Murphy was here because I am going to refer to him, not in a negative way, but just refer to him. One of our problems as we discuss the safety net, that is, the child welfare programs, when you get in a trap, you then bring up the overall problem with welfare itself and it is hard to defend the status quo, what is going on in many of the cities.

It is very, very difficult to talk about this issue in a very rational fashion, unfortunately. But I would like to confine my remarks basically to the child welfare system itself because that is the purpose of this discussion, whether we block grant it or make changes or make major, minor adjustments is what we are really talking about here. Perhaps, I will start with Mr. Petit.

You were up in Maine, if I am not mistaken?

Mr. PETIT. Yes, I was.

Mr. MATSUI. We talked, I think, it was in the 1987—1988, during consideration of the Family Support Act. How well are these programs—and you will have to forgive me. I was at another meeting and you may have addressed this. How well are these programs actually working? We are basically talking about foster care, obviously, adoption services, we are talking about family preservation. Obviously, the court system has to play a significant role in all of this. There is a mix of State-Federal money, State-Federal regulations. How are these programs really working? And can we make minor adjustments to make them work better?

Mr. PETIT. Well, in the first instance, child protection, the actual intake and assessment process within these agencies, I—you were absent, sir. What I stated was overall I give the system a "D" at best. There are literally hundreds of thousands of children known to the system right now who are at home with perpetrators who will be injured today, they will be raped today, and the system will have a very weak ability to intervene in those kinds of situations.

In many places, people are doing very good work. But on balance, it is a dangerous place for these kids. I cited one particular example of 9-year-old children in jails because they have been sexually abused because there is no place to put them.

In Sacramento County, your own county, and the agency there is a terrific agency, we are working with them right now. But because of what has happened in the State of California financially in the last few years, 24,000 cases of child protection are screened out over the telephone. In some—6,000 are actually investigated. We find workers who are inexperienced.

In some child protective units, 70 percent of the workers turn over in the course of a year. We held an administrative orientation for new child welfare directors and State commissioners between 1991 and 1993. We did one in both of those years. There has been a 70-percent turnover in one or both of those top two positions in child welfare nationally.

There are no standards that the States are being held to. There are an abundance of standards but they are not mandatory. So in some I think the situation—there is a wild variation in how it is conducted including within individual States.

We have reviewed thousands of records. We have talked with thousands of individual workers. What we find is a lack of purposefulness and focus among individual workers. They are frequently freelancing their work.

We would strongly recommend the adoption of standards that you condition Federal financing upon those standards and that you further require from each one of the States how much it would cost to come into compliance with those standards. In Texas right now, the child welfare expenditures are $350 million a year. They have some 10,000 or 15,000 kids in out-of-home care.

In Illinois, with one half the population, their child welfare expenditure is $1 billion with 50,000 children in out-of-home care. So while everyone has been reminded of how different the States are and the need to accord them great flexibility, the fact of the matter is the needs of children are strikingly similar from one jurisdiction to the next. And what we are seeing is by accident of geography, in many instances, you are protected or not.

Some States have zero children a year who are killed. Some States have 150 to 200 children a year that are killed. You can see it as a function of the kind of training that workers receive, how closely integrated the different systems are with each other. In California, again, because we are doing a lot of work there, in San Diego recently, their legal expenditures—and you raised earlier the question of paperwork, the legal expenditures in which children who are accorded attorneys, was $11 million a year on a $100-million-a-year budget.

The next largest jurisdiction we have been able to find was $1.8 million in Philadelphia, which happens to be the home of the Constitution where they also are concerned about due process kinds of considerations. So you have large numbers of people who are intervening in these cases who are not really laying their hands on children.

You know, one of the case plans that you alluded to before in terms of the workers not recording them, in San Diego County recently we ran into a situation where a mother was told the only way she can get her three children back, is if she visits them once a week, she gets a job, and if she curbs her substance abuse.

She curbed her substance abuse, she got a job. On Saturdays was the day that she tried to see her kids because she was working. All she had was public transportation. She couldn't travel the entire distance because the kids were in three different homes. It was taking her 8 to 10 hours a day just to get to where the children were. Because she was not able to visit them consistently, the children were denied from returning to her. A $2,000 or $3,000 investment in an automobile would have permitted this woman to take over responsibility for her family.

So I think, on balance, our view is that the situation is chaotic. Large numbers of children are being unnecessarily killed, raped and injured. We have seen this in every single State. There is not a single State in the country that we would hold up as a model. Certainly, some do a better job than others. And that is reflective of the investment.

The other thing I would tell you is that we have been involved with Ms. Lowry's organization, the ACLU, of which I am a cardcarrying member, and we have gotten deeply and intimately involved with the States in crafting a response to those legal actions. One of the things that we have discovered in doing that is that a frequent and recurring attitude among locally elected officials and Governors and State legislators around child welfare budgets is, don't ask and don't tell. They literally do not want to know.

They start out with a 95-percent funding request or 103-percent funding request, but they do not want to target it to what the States's administrators are specifically identifying as the need. So that simply returns to the point that there must be a strong Federal role in this process that accords maximum flexibility, that is a partnership kind of a function. And one of our last recommendations, and then I will cease on this one, is that you consider creating a fast-forward national panel comprised of some of the people that were here with strong representation of the States and local governments to work with you and your staffs to craft something very quickly in dealing with this issue.

The full dimensions of this problem have yet to be defined. We estimate that there are between 0.5 and 1 million children a year who are being sexually abused in this country and the overall response to that is a very, very weak one.

Mr. MATSUI. Anybody have any comments?

Ms. LOWRY. Yes, if I might. In response to the question that you started off with, Mr. Matsui, if the Federal statutes were being enforced, truly, we would see very different things happening in the States.

I agree with Mr. Petit about his description of the problems. But the general framework is in the statute now. It could be more specific, as I said in my testimony. But the statute already covers a broad range of issues which, if implemented, would protect children. And I think that is the real shame.

We could get a better one, but we haven't even enforced the one we have got. And that is my concern about giving up on what we have and going to something less. Not that things can't be improved. They always can. But if we were protecting children in the Federal child cap—I am sorry, the child abuse statute already requires not specifics, but that States have systems that will protect kids who are reported for child abuse and plans that are supposed to assure permanence. If we were doing that in the States, if anybody were ensuring that the States were doing these things, I think that we would have very different kinds of statements to make today.

Mr. MATSUI. And I didn't mean to interrupt because I know others—I will be very—I think Mr. Cooper has a comment. See, that is what is a little troubling with respect to the last panel, is the fact that these abusers and these murderers, that the gentleman from Michigan—or Illinois talked about, you know, there is no law—there are laws to make sure that doesn't happen.

Maybe—maybe Dr. Berger wants to comment on that, because I want a dialog here. I want to find out what the problem is. But it seems to me an issue—obviously, the system is overwhelmed. The system is overwhelmed and I see the frustration. But I would imagine there are laws for early intervention in those situations that, obviously, wasn't done in the Illinois case.

Ms. LOWRY. There really is no accountability. There are laws. States have very specific statutes and then the Federal Government has general statutes, but nobody is really following it. And as flawed as the 427 audits were, and they were, they at least at the beginning exercised some check that the States thought might come down on them. Then as the audits went forward and it became clear that they were not rigorous at all, then I think they came to have less weight. But I think if there was a clear message to the States, here are the basic minimal standards, you have got to follow them or something bad will happen, and we very much support the fact that Congress changed the sanctions so that there could be constructive intervention into the State other than simply a bang funding cutoff, then I think you might see something different in the States.

Mr. MATSUI. Can I have—Dr. Berger. Yes.

Ms. BERGER. Yes. I would just like to make a comment of caution on this. There is also a wave around this country which could only be described, the abuse of child abuse.

Mr. MATSUI. What was that?

Ms. BERGER. The abuse of child abuse. In other words, we are using child abuse disproportionately to try to put Federal regulation requirements in place. We have laws in existence that punish, and punish severely, people who abuse children: Parents, mothers and especially the boyfriends of single mothers, the live-in men in the households. Such laws are already in place. I do not know what system you want to develop whereby we have even more monitoring systems to develop, and costly, in addition. I furthermore do not see what the difference is between State laws and Federal laws. From my point of view, the rule of thumb is: The closer to the bottom of society, the closer to the problem, the better you have a chance of changing and improving the situation.

Mr. MATSUI. Let me ask you, though, you don't want the current criminal justice system to be the only one responsible, though, for the issue of child abuse, do you?

Ms. BERGER. I think this is your first line of defense and we all rely upon this. The second line of defense would be to develop general rules. But I do not see how you can have a Federal system of rules that can be implemented and that works.

Mr. MATSUI. But, Dr. Berger, here is what the problem is, though. I was on the city council 16 years ago. I was on there for 7, not quite 8 years. So, I mean, even then, we had problems in terms of our ability to really, you know, give adequate protection to our citizens. This was back in the early seventies, midseventies. And the system is totally overwhelmed now.

If you get a call to the police department under 911, you know, they are going to go to the armed robbery first. They are going to go to a violent crime, but domestic violence is still not high on the priority list in terms of the average local police department. I can just tell you, so you can't rely upon that to make the case.

Ms. BERGER. I would advise everyone to sit in courts and listen to cases whereby children are taken away from their families. Very often the rules of child abuse are very vague and at times even very hazardous. Let me give you an example; if you don't provide a regular breakfast, a warm breakfast to your children—you abuse a child. The Federal stipulations are so ordinarily chaotic that you no longer know what is abuse or what is not abuse.

Chairman JOHNSON. We must go on to the others and then we can come back, if you would like to.

Mr. Johnson.

Mr. JOHNSON OF TEXAS. You sure?

Chairman JOHNSON. Yes. Because you have been here throughout the testimony.

Mr. JOHNSON OF TEXAS. OK. Thank you.

I agree with you, Doctor. I think it is impossible for the Federal Government to make its will known in the States. It is also improper for us to regulate it that closely. And as a matter of fact, this last election showed that people don't want more regulation, they want less.

I know in Texas, for example, the State courts do handle these systems and there are those who slip through the cracks in any system. And I think that if a parent is abusing a child, he is going to get punished for it under our current laws. You are absolutely right in saying it is better conducted closer to home. And I thank you for that comment.

Would you like to respond?

Ms. BERGER. May I just make another comment which occurred to me all through this morning. Everyone talks about the single importance of highly trained and credentialed child care workers. I know one case Ms. Lowry has been involved in. A residential school for disabled children—the single best person dealing with these children was a Polish peasant with 6 years of education. This person would no longer be employed because of the new Federal laws that require credentials.

In other words, we are depriving ourselves of good people to care for clients like the ones you are representing. There are many good people in every uncredentialed community. So if you write out new kinds of stipulations, I would like them to be much more flexible and not apply to credentialing. No amount of education can make you into a good child care worker, and I know a lot about this because I have done reviews at residential homes for abused children. So I am—I am sorry, Mr. Matsui, that I come to that conclusion. When I started out 30 years ago to work on such issues, I was on your line, as well. It has been a bitter experience and I had to rethink many issues.

Mr. PETIT. I think that the issue is not intervening in those kinds of situations. The problem is the State right now has magnum force in intervening in the lives of people and, in many instances, you don't need the police and you certainly don't need child protective services. Many of the garden variety kinds of neglect cases could be handled well by public health nurses, by community and socialworkers, and so forth.

What is missing right now across the country is an assessment process that allows a good analysis of what is going on within a household, being done by mature workers that allows them to select from a menu of services and says this is what we would like to plug this family into. The great majority of these cases don't need State intervention, what they need is local community intervention of a nonminimally intrusive kind of a nature.

The problem right now is that the States, most of them, because they are so strapped for cash, and especially locally, is that they have a triage system. They are going out on only the most severe cases. I know of virtually no system that has the luxury of removing children from their families because of something like improper meals. Forget warm meals. Even if they are not doing meals, in many instances, they will not intervene in those kinds of cases. The States are not all equal on this.

I would just note, Mr. Johnson, in Texas, with all due respect, there are more than 100 children a year who are killed in Texas every single year. It is not one of the stronger systems that exists nationally. And you know, there is no basis for the Federal Government at this point interjecting itself into those situations at a protective level.

Mr. Johnson of Texas. But your statement, Mr. Petit, that there is over 100 in Texas killed, from what cause?

Mr. Petit. From—at the hands of parents, at the hands of family members.

Mr. Johnson of Texas. You know, I won't believe that unless you show me the precise cases.

Mr. Petit. I would be very happy to show you the cases.

[The following was subsequently received:]

CWLA Child Welfare League of America, Inc.

February 6, 1995

The Honorable Sam Johnson
1030 Rayburn House Office Building
U. S. House of Representatives
Washington, DC 20515

Dear Representative Johnson:

This letter follows up on the brief discussion we had at the Ways and Means Oversight Subcommittee hearing on January 23, 1995 on Title IV-E and the 427 review process. During my report on the problems associated with unevenness of arrangements, responses and resources within and among the states, I described data on child fatalities nationally and in several states, including Texas. You requested those data and I have enclosed the most recent information based on the 1993 survey by the National Committee to Prevent Child Abuse. Texas had 114 child abuse and neglect related fatalities in 1993. The data for 1994 will be available in April 1995.

I would be happy to discuss further with you these and other issues related to the state/federal partnership to protect abused and neglected children.

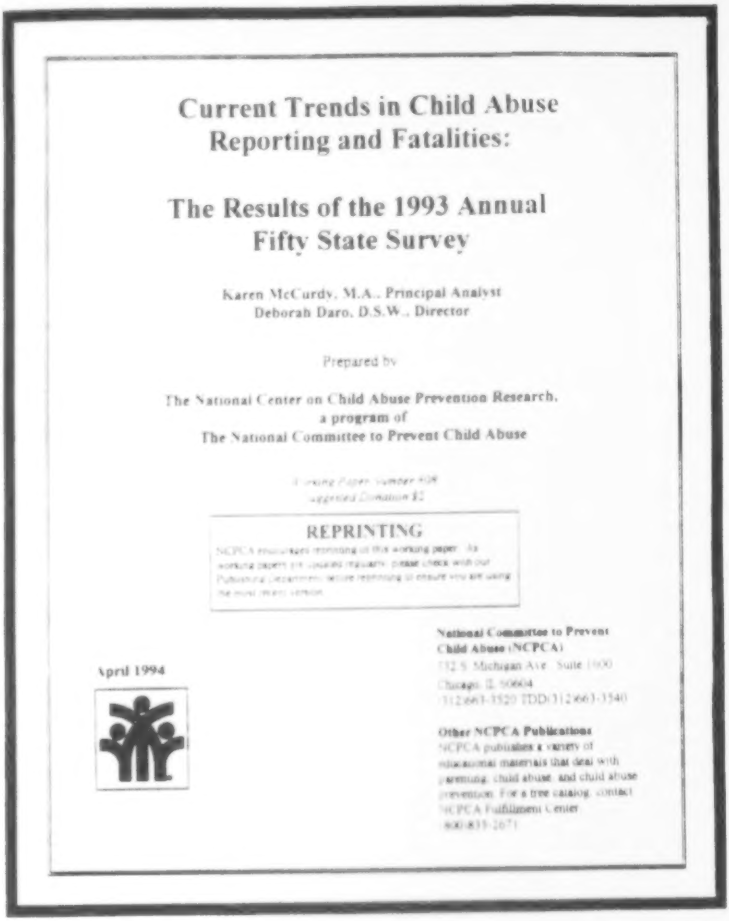
Sincerely,

Michael Petit

Michael Petit
Deputy Director

Enclosure

cc: Chairwoman Nancy Johnson



Current Trends in Child Abuse Reporting and Fatalities:

The Results of the 1993 Annual Fifty State Survey

Karen McCurdy, M.A., Principal Analyst
Deborah Daro, D.S.W., Director

Prepared by

The National Center on Child Abuse Prevention Research,
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Table 3

CHILD ABUSE AND NEGLECT RELATED FATALITIES

State	1985	1990	1991	1992	1993
Alabama	NA	14	17	11	25
Alaska	NA	1	2	1	NA
Arizona	NA	14	12	11	24
Arkansas**	9	9	9	17	9
California	18	79	100	90L	NA
Colorado	12	31	32	34P	29P
Connecticut	6	17	5	10	16
Delaware	2	1	3	14	NA
Dist. of Columbia	NA	NA	5	11P	13P
Florida	NA	72	60	67	63
Georgia*	NA	12	13	10	12
Hawaii	1	2	5	3	0
Idaho	5	4	6	3	6
Illinois	53	75	92	77P	76P
Indiana	29	54	51	49	38
Iowa	9	9	15	10	6P
Kansas	16	11	4	6	6
Kentucky	12	20	17	24	20
Louisiana	50	28	16	23	25P
Maine	1	6	6	5	7
Maryland	8	16	18	11	29
Massachusetts	11	16	9	15	NA
Michigan**	11	NA	15	19	NA
Minnesota	6	14	13	6	NA
Mississippi	NA	12	24	13	15P
Missouri	25	26	31	46	43
Montana	2	7	8	5	0
Nebraska	2	2	4	2	4
Nevada	6	1	7	4	8
New Hampshire	NA	NA	NA	NA	NA
New Jersey**	21	18	19P	19P	26P
New Mexico	10	8	6	4	6
New York	63P	105P	109P	78P	NA
North Carolina **	4	30R	13	24	NA
North Dakota	2	2	0	0	2

State	1985	1990	1991	1992	1993
Ohio	NA	NA	NA	41	44P
Oklahoma	16	13	18	20	23
Oregon	4	14	16	12	11
Pennsylvania	14	54	60	51	NA
Rhode Island	5	4	8	7	7
South Carolina	11	21	21	28P	NA
South Dakota	4	2	1	2	5
Tennessee*	NA	NA	NA	NA	15
Texas	113	112	97	103	114
Utah*	8	6	12	17	NA
Vermont	1	0	5	3	NA
Virginia	14	28	34	32	43
Washington	27	9	12	12	9
West Virginia	NA	1	3	2	5
Wisconsin	10	17	17	14	NA
Wyoming	3	4	4	6	1
Total Fatalities	655	1025	1114	1123	786
% of Child Population Under 18	80.7	93.3	93.2	97.7	60.5
Total Projected Fatalities Nationwide	812	1099	1195	1149	1299
Per 100,000 Children	1.3	1.72	1.86	1.76	1.96

% Change 1985 - 1993 -----50%------

% Change 1990-1993 -----14%------

L California's Dept. of Justice confirmed 69 deaths, LA county confirmed an additional 21 deaths.

P Not final #'s as some cases are still pending. For example, New York has 26 deaths still under review for 1992.

NA Not Available

R Reported Fatalities only

* These states only provide information on deaths due to abuse.

** Fatality information came from Death Review liaison.

TABLE 5–1.—NUMBER OF AGED AND DISABLED ELIGIBLE ENROLLEES AND BENEFICIARIES, AND AVERAGE AND TOTAL MEDICARE BENEFIT PAYMENTS

[Persons in thousands]

	Fiscal year										Projected average annual growth (percent)		
	1975 (actual)	1980 (actual)	1985 (actual)	1990 (actual)	1991 (actual)	1992 (actual)	1993 [1] (estimate)	1994 [1] (estimate)	1995 [1] (estimate)	1996 [1] (estimate)	1975–85	1985–90	1990–96
Part A													
Persons enrolled (monthly average)													
Aged	21,795	24,571	27,123	29,801	30,456	30,808	31,630	32,054	32,432	32,763	2.2	1.9	1.6
Disabled	2,047	2,968	2,944	3,270	3,380	3,561	3,833	4,094	4,389	4,683	3.7	2.1	6.7
Total	23,842	27,539	30,067	33,071	33,836	34,369	35,463	36,148	36,821	37,446	2.3	1.9	2.1
Beneficiaries receiving reimbursed services													
Aged	4,906	5,943	6,168	6,070	6,110	6,710	6,820	6,960	7,100	7,230	2.3	−0.3	3.0
Disabled	456	721	672	680	700	735	805	865	935	1,000	4.0	0.2	6.6
Total	5,362	6,664	6,840	6,750	6,810	7,445	7,625	7,825	8,035	8,230	2.5	−0.3	3.4
Average annual benefit per person enrolled [2] [3]													
Aged	$326	$853	$1,563	$1,971	$2,007	$2,324	$2,539	$2,800	$3,009	$3,260	17.0	4.7	8.7
Disabled	$345	$948	$1,806	$2,139	$2,177	$2,527	$2,665	$2,861	$3,024	$3,232	18.0	3.4	7.1
Total	$327	$863	$1,587	$1,987	$2,024	$2,345	$2,553	$2,807	$3,010	$3,257	17.1	4.6	8.6
Part B													
Persons enrolled (average)													
Aged	21,504	24,422	27,049	29,426	29,910	30,471	30,982	31,354	31,697	32,000	2.3	1.7	1.4
Disabled	1,835	2,698	2,672	2,907	3,023	3,163	3,383	3,656	3,954	4,244	3.0	1.7	6.5
Total	23,339	27,120	29,721	32,333	32,933	33,634	34,365	35,010	35,651	36,244	2.4	1.7	1.9
Beneficiaries receiving reimbursed services													
Aged	11,311	16,034	20,199	23,820	24,115	25,603	25,994	26,682	27,355	27,968	6.0	3.4	2.7
Disabled	797	1,669	1,933	2,184	2,276	2,522	2,772	3,031	3,326	3,620	9.3	2.5	8.8
Total	12,108	17,703	22,132	26,004	26,391	28,125	28,766	29,713	30,681	31,588	6.2	3.3	3.3
Average annual benefit per person enrolled [2]													
Aged	$153	$347	$705	$1,250	$1,342	$1,403	$1,474	$1,593	$1,781	$1,957	16.5	12.1	7.8
Disabled	$259	$615	$1,021	$1,602	$1,758	$1,847	$1,994	$1,863	$2,005	$2,181	14.7	9.4	5.3
Total	$161	$374	$733	$1,282	$1,380	$1,445	$1,525	$1,621	$1,806	$1,983	16.3	11.8	7.5

[1] Represents current law. Does not include regulations or legislative proposals.

[2] Does not include administrative cost.

[3] Includes Part A catastrophic benefits beginning in fiscal year 1989. There are no catastrophic benefits after fiscal year 1990.

Source: Health Care Financing Administration, Division of Budget.

Mr. JOHNSON OF TEXAS. But in spite of that, what are they across the Nation?

Mr. PETIT. Texas has one of the highest rates.

Mr. JOHNSON OF TEXAS. What is the total?

Mr. PETIT. Right now, about 1,300 cases minimally believed, but in truth, the number is probably closer to 5,000. They frequently get put down to something else.

Mr. JOHNSON OF TEXAS. Actual fact, you are saying 1,300 a year?

Mr. PETIT. Inflicted. If the mother is on a fifth story of a building and she lets a 1-year-old child go out and play in traffic, does that constitute a child abuse death? No. It would not be so counted presently. It would just simply be a motor vehicular accident. But in the actual hands of the parents on the child, about 1,300 a year.

Mr. JOHNSON OF TEXAS. That is not child abuse in my view, either. That is mismanagement. That is the parent not taking responsibility of her kid but it is not abuse.

Mr. PETIT. It is a seriously neglectful situation that resulted in the child's death and it is exactly the kind of thing the State right now——

Mr. JOHNSON OF TEXAS. So you are saying the United States should get involved in that and control that person's life and tell each parent when and where they can let their children play, where and when they can let them ride a bicycle, where and when they can cross the street?

Mr. PETIT. If parents are endangering the lives of their children, since children are completely powerless and completely dependent upon their parents for protecting them, somebody has to intervene. That is why the states have created those child abuse laws.

Mr. JOHNSON OF TEXAS. You are absolutely wrong.

Mr. PETIT. What I am saying to you is that the child abuse laws as administered by the States vary widely, and in some States, they vigorously protect these children, and in other States, they don't protect these children and that is why so many kids are dying.

Mr. JOHNSON OF TEXAS. Where in our Constitution does it say the U.S. Government has the responsibility to take care of those kinds of situations?

Mr. PETIT. Life——

Mr. JOHNSON OF TEXAS. We are a States-rights constitution, believe it or not, and that is what we are getting back to, trying to.

Mr. PETIT. I think the Declaration begins with life, liberty and the protection of happiness.

Mr. JOHNSON OF TEXAS. It does not say protection, the pursuit of happiness, is the quote.

Mr. PETIT. Pursuit of happiness. I would say life is the first one. These kids are dying because nobody is intervening on their behalf, even though they are at-risk of being killed. If that isn't going to be intervened by government, who else is going to do it?

Mr. JOHNSON OF TEXAS. I am just going to say that I do not agree with that statement, and would close my questioning at that point.

Chairman JOHNSON. Thank you.

Mr. HERGER. Madam Chairman, if I could take 1 second to synthesize that, if I could please?

Chairman JOHNSON. Very briefly. We do have to adjourn at 2:30 and we have two more questioners.

Mr. HERGER. Madam Chair, the comments from both the panel and from the members of the committee have asked what ought to be the lines of defense, how do we get protection for children. We submit, at the Children's Rights Council, that the first line of defense for children is the family. We need to look at policies that the Federal Government has that get in the way of families doing their functions, policies that interfere with the things that families know how to do, policies that prevent families from being the best protection for children they can be.

Take, for example, the simple issue of paternity establishment. Every child in this country is born with, wants, loves, and needs two parents. We have a system right now under which the greater number of our welfare recipients don't even know who their dad is, and find that their dad is actively concealed from them by a welfare system that doesn't care about that dad, except to see him as a nuisance.

Just to give you an example of one case we publicized a bit during this summer, not that it is any different from many other cases, but simply one we picked out. A man and a woman with low income had a baby out of wedlock and decided to do the right thing. Got married, moved in together, kept their minimum-wage jobs. What was the response of the bureaucracy? What did they say as soon as they found those people? They said: "Dad, you must leave. You are hurting your child by being here."

If we care about children in this country, we have got to adopt that physician's law, "first, do no harm." Get government out of the business of damaging families and then see what we can do to help families as a second step.

Chairman JOHNSON. Mr. Hancock.

Mr. HANCOCK. I was just thinking about this conversation between Sam and Mr. Petit. Evidently, I am a child abuser, because there have been times when I didn't have my eye on my child 24 hours a day. I can think of a case where a small child recently got run over as a result of a car being left out of gear and the little child was out in the driveway.

I know the family real well, but they were not guilty of any form of child abuse whatsoever. So I take offense to the extent that that was carried. And I agree with Mr. Johnson, that this is not a function of the Federal Government.

Wasn't the reason that we are holding this hearing to decide whether we should have block grants and to get the Federal Government out of funding these various programs? According to most of the testimony we have heard today, you can't enforce the law. We have got the laws but they can't enforce them.

Well, if that is true, then why are we spending our time trying to write some more laws that we can't enforce? So it would appear to me that we need to go back to square one. We need to get back to where we start training and educating people again, teaching that, yes, you do have certain responsibilities and society is going to have to address it.

I don't think that government itself can address this question. I think it is much deeper than that. It is the very moral fiber of our society. And you are not going to be able to do it by passing more laws. We are going to have to be able to get back to where more volunteerism is involved.

Ms. LOWRY. Can I say one more thing?

Chairman JOHNSON. I am going to move on, if I may. I absolutely have to leave at 2:30 and I left my questions till the end, and I want to at least give us a chance to focus a little bit more carefully, Ms. Lowry, on your challenge to the system. And I would like you and Mr. Petit to address the issue of, if the system is failing as badly as it is, and we have had a lot of testimony from a lot of different points of view that the system is not meeting the needs of America's children, it is also absolutely clear and we have put a lot of new money into this system, we have basically tripled the dollars in the last 5 years. There are not many programs in anyone's budget, public or private sector, Federal, State or local that we have done that with, and yet we are not addressing the problem.

Mr. Murphy in the preceding panel said you are not getting to the cause. Mr. Petit, that is what I hear you saying. I hear you saying, from my notes, that the system is crushing us with paper, that it is not working, and you mentioned getting serious about teen pregnancy. Get serious about child care in every school. I would assume, then, that teen parents would be sure to go to school, you would require that.

These are basically more welfare reform issues than they are actually foster care reform issues. Then you mentioned be sure to require inservice training and a good assessment process with a much greater, more flexible approach as to whom provides services. I would assume, you would even then allow the community-level church groups to develop, where the family support and frankly, the Federal level can't reach.

How do we bring together child services so that we get at Wade Horn's 25 programs? I mean, this is ridiculous. What do we put together—you may not want to be specific on this. But what are the things that should govern it and how do we hold it accountable and how do we get around the very real problems that Ms. Lowry has pointed to, though her solution actually sort of sounds to me like more of the same. I will give you plenty of time to answer.

I may have to duck out. And Mr. Cardin hasn't had a chance to speak, so I will ask one of my colleagues to take over. But if I don't get a chance to finish this with you now, I am interested in your input in the future.

Mr. PETIT. First of all, let me say that contrary to what sounded like in my exchange with Mr. Johnson, that I absolutely fundamentally believe, in the first instance, the role of government was to enable families to manage their own affairs in as minimally an intrusive a way as possible. I agree, sir, you cannot deputize half the population to watch the other half of the population, which is what we are moving toward right now.

So, in the first instance, I think it is a question of we must enable people to learn how to be better parents. We are not doing serious parenting around this country. It is a minimal kind of a program that is being offered only to those people who are perceived as being abusive.

We know much more about healthy human development than we ever knew before. All of the other Western industrialized countries have at the local level, not at a Federal level, but at a local level, home visitor programs to young families, especially families who are under the age of 21 years old.

When we asked a survey in North Dakota recently, we just did this for the entire State of North Dakota, 89 percent of a statewide survey of families said they would like to have a home visitation program, not of child protective workers but of public health nurses working with them. We also learned from 80 percent of the parents, that they said parenting was more difficult, they believed, than when their parents were parenting, and childhood is more difficult today than when they were children as well.

I think that there are two issues here that I would urge the committee to think about, one is a mechanical issue and it is the point Mr. Matsui raised. There are 3 million children every year being referred to legal organizations, governments that are supposed to examine those cases. That business of the mechanics of child welfare, what happens from the point that somebody dials 911 to the point of achieving a safe, permanent situation for children is a tremendously ignored area.

There has been no court representation here today. They are deeply involved with this whole matter, and right now, it is a very highly legalistic process, that everybody agrees lawyers don't put their hands on children. We need other people to be able to do that kind of thing. So all the steps in that process we would urge you to take a look at.

But the other issue that is surrounding all this are the causative factors that don't have anything to do with the mechanics of all of this stuff but have to do instead with the question of what is contributing to this problem in the first instance. We would submit right now that we have created a spawning ground, that will ensure that the country will be dealing with this for the next 20 or 30 years, unless we do much more front-end kind of work.

And in North Dakota right now, their legislature is debating a report that we have just prepared for them. It was convened by the legislature. It was a year-and-a-half long assessment. It involved more than 2,000 citizens in focus group discussions, all of the State agencies, all the local agencies trying to push decisionmaking down as finite as possible, all geared at how can families and then communities take care of their own needs.

We believe that children do best when families are attentive to their needs. Families do best when communities are attentive to their needs. And the reality is the country has not adjusted to the changing demographics in the post-World War II period, that basically has large numbers of adults outside the home with nobody watching children. That is a fundamental consideration irrespective of your income level.

They are going to embrace, we believe, perhaps, universal child care in North Dakota, using junior and senior high school students to run the child care facilities, with an appropriate adult, and with seniors, so the kids learn what parenting is all about. There is no role modeling going on, and to learn what a serious job it is.

So my point is, there are legal issues involved when the kids are brought to the system, that the courts and child welfare need to protect children who are literally at-risk of being injured or sexually assaulted. And when you have judges say to you, and prosecutors say to you, that I know that there are kids right now, we know who they are, we believe they are at home with their perpetrator and we don't have the hooks legally to get our hands into them, that is a question that I think needs to be addressed one State at a time, with some Federal oversight and support.

Chairman JOHNSON. Thank you.

Ms. Lowry, I do want you to answer this question. I want you to answer it fully. I may have to walk out in the middle, but I will talk with you about it later so I will hear the rest of what you said. I think it is important for the record, it is important for the committee.

I am going to turn the gavel over to Mr. Hancock so that Mr. Cardin will have a chance to question, if he cares to, or they will have a chance to follow up, if they care to.

Ms. LOWRY. Thank you.

On the question of more—whether this—what I am recommending is simply more of the same. Let me say a couple of things. The kinds of things that Mr. Petit is talking about, different kinds of programs, better programs, teenage pregnancy, front-in services, all that is not contrary to what I am saying.

All I am saying is, number one, things aren't good now but look where they were in 1980. Nobody had an idea of what a case plan was or the need to have a case plan. We didn't know how many kids there were. They were out in large institutions in the country. There were families that would have adopted them and they weren't being asked.

Witness the fact that after the statute passed in 1980, when we had a population of 500,000, the population dropped to 270,000 within the next 3 years. So I am not saying that things are great now, goodness knows, anybody who has looked at any of the lawsuits, knows that I don't think that things are better now, are OK now. But we need to have legally enforceable standards and they are not standards that say how many hours a day you have to keep your child within your eyesight. They are standards that say, as a general matter, when things get so bad that the government gets involved, not when somebody just walking down the block gets involved, but when it gets so bad—and what we are talking about really is kids who are left alone in their homes for 3 days with no food. That is really the kind of stuff we are talking about and that is very common.

I don't know any—just like Mr. Petit, I don't know any system that is worried about a hot breakfast for a kid. They are worried about the kids dying of malnutrition because that is what we are talking about. What I am saying is, we have got to have those general standards and they have got to be enforceable.

You asked me, I think, Mr. Hancock, a few minutes ago, what difference does it make, the laws aren't being followed? Well, either they can be followed by virtue of the Federal Government exercising some general oversight responsibility, allowing the States flexibility to decide how they are going to protect kids, but then making sure that they have got some program that protects kids, or they can get followed in the way that my organization, the Children's Rights Project becomes involved. And that is when States sink so far below a minimally acceptable level, as happened in the District of Columbia—which is not a State, of course, but nevertheless, was held to the Federal standard—the kids have to get their day in court, not on individual situations, although they form part of the information, but when you have a system that has workers that carry caseloads of 150, that is not a system that can protect anybody.

And so that is the importance of looking at this from a systemic perspective and from having general, enforceable standards that either the States will follow, because otherwise, the Federal Government is going to bother them, or worse comes to worse—and, obviously, it should be the last recourse, somebody is going to make them talk about in front of a Federal judge.

Mr. HANCOCK [presiding]. The gentleman from Maryland.

Mr. CARDIN. Thank you.

Let me thank each of you for your testimonies today. This is, obviously, an extremely important subject, and we are trying to seek good advice as to what we should do. I guess the frustrating part is I haven't yet met anyone who doesn't think the system is in need of significant change. Where we seem to be frustrated is what type of change will bring about a constructive result. And we haven't been able to come to, I think, a consensus on that. And I am hoping that your testimony will help us to reach some agreement.

I agree with Mr. Petit, in that the welfare of our children is the responsibility of all of us, starting first with our families, but government has certainly a very important role when it comes to the welfare of our children. And I strongly believe in federalism. Section 427 reviews have been troublesome to my State and they have been in to see me about changes.

So I guess my question to Mr. Cooper, who has done such a wonderful job here in Maryland: What if we were not to have Federal standards at all? What impact do you think that would have on our children? What response should the States come forward with?

Mr. COOPER. The hearing today is focused on the 427 requirements and, for example, the periodic review that looks at the case plan and says are we going in the right direction for the child? I think even our Federal—our State administrators, as well as our citizen reviewers, would agree we should have that and we have to have that. And if the Federal Government takes that away, we will have to put it back in through State laws. So that is something we need to keep.

I think we have missed a point here today, and I am just speaking for myself. But the IV–E requirement, one, that pays the foster care maintenance payment to the State, is costing States a lot of administrative waste.

What happens? If a child comes into foster care and they are on AFDC, or they would have been on AFDC, the Federal Government will pay a share. If they wouldn't have been on AFDC, maybe it was that family Mr. Henry was talking about, where both parents work the minimum wage. Well, we won't pay for that child. So what happens in Maryland, we spend about $1 million a year determining whether the kid was poor enough. What does that have to do with it and what Federal interest is advanced by making that determination?

I think that is a significant area of paperwork reduction that we could do, and that is not to say that we should do away with some other requirements, like the fact that before a child is brought into foster care, a court should have found that there were reasonable efforts to try to help the family keep the child safe within the family. We ought to keep that, but throw out the income redetermination.

I think we need more research into some of these issues like, when is family preservation appropriate. I think that the Federal Government could make a real contribution there, because I don't think we now—I think we have to keep working on the courts. There is a small Federal amount of money to get the courts to improve themselves, and I think we need to keep doing that.

Mr. CARDIN. Let me try to have you focus on Federal standards for just one moment. Is your concern that if we were not to have Federal standards, there would be a lack of uniformity among the States, or are you afraid that the States would not establish adequate standards in order to protect our children?

Mr. COOPER. I am particularly—I have to say from my point of view, I am particularly afraid of the States right now that don't have citizen review. Because I think in Maryland, where we have 400 citizens actively now and probably 1,000 citizens that have been through and heard cases about—like Ms. Howze's case, we would have reviews in Maryland and we would get them enforced.

I mean, the Federal Government, in putting that requirement, made a big difference in our effectiveness in setting up, and I think we are there now. But what about—if citizens reviewed 50,000 kids, then that is about 10 percent. What really concerns me is that I think that—and Mr. Petit spoke about the tremendous variations that we have in child welfare. So, yes, uniformity of quality is a big concern. And we need to—we need to make these—we need to look at these requirements again to get more outcome oriented. I am going to try to write in some suggestion about that.

Mr. CARDIN. Let Mr. Petit have a chance.

Mr. PETIT. Let me say, right now, the States are not burdened by much in the way of standards. There are 11 volumes of standards by the Child Welfare League. There are many volumes on the Council of Accreditation. There are no States in compliance, because they are on a voluntary basis.

They have been around for years and years. The States have caseload ratios that range from 15 to 1 to 20 to 1, to some instances, at a practical level, 120 to 1, which is impossible to do serious casework on that.

We think the States and the Federal Government, working with private volunteer agencies ought to actually agree on what standards to hold themselves to jointly, and then based on that, ought to create the tension within the system that everybody holds each other accountable.

Right now, there are no real standards that are uniformly applied, and the States are rarely, if ever, sanctioned as a result of this. And I don't think this is a question of Big Brother, Federal

Government watching the States. The difficulty is with a country as big as ours, and with much of this being done with local jurisdictions with county assistance, who provides technical assistance to the States and counties that want to do a better job in this area?

Mr. CARDIN. That was my point. You see inconsistencies within States because of local governments?

Mr. PETIT. We see inconsistencies within States, we see inconsistencies within counties, and we see inconsistencies within five socialworkers responsible to the same supervisory officer. In many instances, they are freelancing on their own, making decisions about who comes, who goes, what the point of intervention will be.

That is what happens when there is a lack of vigorous accountability, training. The States ought to be holding themselves accountable, and it is very weak in many jurisdictions.

Mr. CARDIN. I will give Ms. Lowry the last 30 seconds.

Ms. LOWRY. Thank you.

There are general standards in the Federal law now. They are very general. And the States can do a wide range of activities and comply. But there are standards that say there has to be a case plan within a specified time.

The case plan has to say specific things. The plan has to work toward permanence. The children have to be in homes or facilities that generally conform with nationally acceptable standards, hence, Mr. Petit's organization, standards.

Again, there is a wide range of flexibility, but it is a framework. They can't take a kid into care and not plan for the kid at all.

On the other hand, they can try all different approaches to try to achieve permanence for a kid. So there are some minimal standards. They are not very stringent and the State really can enforce them a lot of different ways. But taking those away and leaving nothing, I fear, would be very, very bad for kids.

Ms. DRIVER. May I speak to your question?

Mr. CARDIN. Sure. I would urge, though, that we look at not necessarily making the Federal standards more stringent or more relaxed, but making it a system that can work. The current system is not working, so we need to figure out a way in which there is really a partnership with the Federal Government working with the States in a realistic regulatory system.

Ms. LOWRY. Right. If I may, I think one step has been taken in that direction by changing the 427 sanctions. It used to be that if the Federal Government reviewed a State and found that it didn't meet the standards, the Federal Government's only option was to simply cut off funds, which wasn't very helpful to a State that was floundering. Now, as a result of some legislation that passed in the fall, the State—the Federal Government has an escalating series of activities, including providing technical assistance to the State. That is a way to, I think, work better.

Mr. CARDIN. No question, we improved it. We still have some old issues that are outstanding.

Ms. LOWRY. Without a doubt. But the problem isn't, I think, as Mr. Petit says, that anybody says the States were overburdened with standards. They are very loose standards. The problem is there hasn't been any pressure to make them comply with even the loose standards that exist.

Mr. CARDIN. Thank you.

Ms. Driver.

Ms. DRIVER. Yes. In response to your question about standards in States that don't have citizen review, Iowa, has just—is building up its citizen review system now under legislative mandate and they are under a trial. A case plan is, one would think, a normal thing when you take a child from a home, and one of the things—mind you, 98—96-272 has been in existence since 1980. You would think that there would be case plans in every case in the State of Iowa.

And I am not trying to pick on Iowa. It is just that this is one State where we have been gathering some data. And the number of children who did not have case plans was incredible, until foster care review boards came into existence, and they have seen a marked increase in the number of case plans.

And I would like to, on another subject, thank you for your interest in the subject and the question of citizen review and oversight, for working to get some report language in the Omnibus Budget Reconciliation Act 2 years ago.

Mr. CARDIN. Thank you.

Ms. DRIVER. Thank you.

Mr. CARDIN. Thank you for your patience, Mr. Chairman.

Mr. HANCOCK. The Chair would like to thank you for your testimony and taking the time to give us some very useful information.

With that, this hearing is adjourned.

[Whereupon, at 2:45 p.m., the hearing was adjourned.]

[Submissions for the record follow:]

Benbrook Insurance Agency, Inc
901 Main Street -- P. O. Box 1267
Woodward, OK 73802-1267
Phone 405 256-5766 -- Fax 405 254-2605

February 6, 1995

Phillip D. Moseley
Chief of Staff, Committee on Ways and Means
U S House of Representatives
1102 Longworth House Office Building
Washington, DC 20515

RE Testimony to the Ways and Means Sub-Committee
concerning Establishment of Citizen Review of Child Placement

Dear Mr Moseley

I am volunteer reviewer on a Citizen Review Board in Oklahoma and Vice Chair of the Oklahoma State Review Board and I would like to communicate my thoughts to the Sub-Committee concerning the need for citizen review

One of the first cases I reviewed involved "Rhonda", eight, who had been sexually abused by her mother's boy friend She and her brother, "Jake" were abandoned by their mother in 1992 when the State took custody Parental rights were terminated quickly and the children were placed in foster care

Rhonda's emotional problems and sexual acting out were severe Jake, a bright five year old, did not exhibit the same problems It was obvious that adoptive parents for Rhonda were going to be difficult to find Even though it would be preferred to place these children together, our review board asked the court to consider separate placement An adoptive family was found for both children but it failed after six months In the spring of 1993, the children were placed together in therapeutic foster care They receive counseling from a psychologist to help them recover from the failed placement

In two months this case will be three years old Rhonda is eleven and Jake is eight Rhonda's behavior is better, but she still acts out sexually and might be described as a pubescent Lolita that seeks affection sexually Jake remains an intelligent little boy

The policies and procedures of Human Services require that they make every effort to place these children together This is commendable but very limiting for Jake The Reviewer's job is to point out to the Court that even though the bond between these children is very strong another failed adoption will cause great damage to both children It may be in Jake's best interest to place him separately providing for visitation with Rhonda Rhonda will remain in foster care until a separate placement for her can be found It is unfair to use Jake as bait so that these children can be placed together

Citizen review is mandated to recommend to the court what is in the best interest of the children While courts may not have time to hear from everyone involved with these children, we communicate with foster parents, schools, physicians, counselors, attorneys, and others to gather information about these children We then make recommendations to the court that are not constrained by hundreds of pages of policies and procedures These recommendations reflect the standards and expectations of our communities where we and these children live

Citizen Reviewers make recommendations to the court that originate from a desire to meet the needs of the child and protect society without the constraints of agency policies or the limitations imposed by procedural rules. When Human Services and the court work with the Citizen Reviewers as members of a team committed to the needs of society instead of as adversaries, the collaboration has a positive impact.

Citizen review should be required for every child in the State's care to insure that all children and families in the system receive appropriate services. Thus reducing the tendency to slap a Band-Aid on family problems only to see the families reappear a short time later for another Band-Aid.

Reviewers should conduct administrative reviews every six months to ascertain appropriateness and effectiveness of service plans. Such reviews would assure that plan and court goals are being met and reduce need for semi annual court review. Such a forum should also seek independent input from the children, parents, foster parents, schools, physicians and other service providers that generally do not communicate to the court or with each other. This is an inexpensive way to reduce the stress on the court system caused by excessive case loads while retaining the quality and appropriateness of services provided.

Uniform data gathered by review boards and compiled by the State and National Association of Reviewers would be useful to Congress in evaluating the efficacy of service providers, agency policies and court operation. This information system will have a low implementation and maintenance cost. This information flow would also be unencumbered by the bureaucratic infrastructure that bedevils the current Juvenile and Child Welfare systems.

As members of the community citizen reviewers have a unique capacity to see that the services received by troubled children their families are appropriate. We welcome the opportunity to serve the our children, families, communities and courts.

Mac Benbrook

Mac Benbrook

Citizen Reviewer and
Vice Chair, Oklahoma State Review Board

cc by fax Donna S. Steele, Counsel
Committee on Oversight
202 225-9680

STATEMENT OF ROSEMARY WINDER STRANGE
DIRECTOR OF SOCIAL SERVICES
CATHOLIC CHARITIES USA

Madame Chairwoman, Thank you for the opportunity to provide written testimony regarding block granting and 427 reviews. We oppose block granting to the states these federally mandated programs as well as the elimination of the requirements of section 427.

Catholic Charities USA is the nation's largest, private, social service organization. The network of 1,400 agencies and institutions and thousands of concerned individuals works to reduce poverty, support families, and empower communities in the United States.

Catholic Charities agencies and institutions, with more than 266,000 staff members and volunteers, provide social services ranging from adoption and counseling to food and housing. People of all religious, national, racial, social, and economic backgrounds receive services from Catholic Charities. We provide a full range of services to families and children. We operate modern homes and treatment centers for children.

Catholic Charities USA promotes public policies and strategies that address human needs and social injustices. More than 10 million people turned to Catholic Charities for help in 1993. Three million of those individuals were children and adolescents who were 17 years of age or younger.

Catholic Charities agencies have a long and proud history of making permanent placement plans for children in need of families. Even before 1910 when the National Catholic Conference (now Catholic Charities USA) was founded, our agencies were providing quality permanent placement plans for children available for adoption.

As stated by the National Conference of Catholic Bishops in its 1992 Pastoral Statement, *Putting Children and Families First*, Catholic Charities USA believes that "no government can love a child, and no policy can substitute for a family's care. But government can either support or undermine families."

The Adoption Assistance and Child Welfare Act was signed into law in June 1980. This legislation (P.L. 96-272) addresses matters that pertain to both the entry and exit of children from care. It includes measures to stop the drift that characterized the tenure of many children in placement. The law requires that states know what is happening to children in their care, and it redefines the relationship between federal and state government with respect to children at risk of placement and those already in care. This is accomplished mainly through a fiscal restructuring that offers states incentives to accomplish the goals of the act.

Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, and the child protection under Section 427 of the act corrected many abuses of the past which we do not want to see revisited. A whole range of services to children and their parents are necessary to support the family unit; and when placement is necessary, to reunite the family as quickly as possible.

In 1993 Catholic Charities agencies cared for 51,403 children in residential facilities, group homes and foster home care. These children were from all economic levels who could not live with their parents for a variety of reasons including the child's treatment needs and parental neglect and abuse. Our services allowed families to stay together. Other times our services determined which children needed to be removed from their homes, temporarily or permanently. This range of services is what is required by the 427 reviews.

We acknowledge that there have been abuses in the interpretation and application of the 427 reviews. In an effort to speedily return children to their parents, discharge plans are made which are not always in the best interests of the child or the family. Catholic Charities USA views Public Law 96-272 as a step in the right direction while acknowledging its shortcomings.

We too are concerned about the abuses. Residential care is sometimes the level of care a particular child needs at a particular time, but foster care is seen as "least restrictive." As a result, many children are bumped from foster home to foster home and risk becoming emotionally disturbed. These children eventually require more expensive residential care and treatment. Some children never get a stable home. Due to funding shortages, child protective services and other child welfare services are understaffed, and workers are poorly trained. Eliminating any of the requirements of P.L. 96-272 and the other federal child protections would set the field of child welfare back fourteen years and would be a detriment to the children and families of our nation. Let's correct the abuses, but let's not wipe out what has been accomplished.

We fear that block granting federal child welfare services and foster care programs back to the states will limit the funds available for these critical children's services as demands increase. Adoption assistance and foster care are entitlements to individuals. Block granting would change the nature of the child's right to a protective safe environment either through the foster care or adoption system.

Thank you for this opportunity to offer testimony to The Ways and Means Subcommittee On Oversight.

Old Arroyo Chamisa #32A
Santa Fe, NM 87505

1 February 1995

Mr. Phillip D. Moseley, Chief of Staff
Committee on Ways and Means
US House of Representatives
1102 Longworth House Office Bldg.
Washington, DC 20515

Dear Sir,

The people who have lent their names to this letter are citizen volunteers on two boards in New Mexico's Foster Care Citizen Review program. We are writing to register our support, in the Ways and Means Subcommittee hearings on child welfare programs, for consideration of expanding citizen review as a responsible, effective, and economical way to improve the effectiveness of child welfare programs and provide protection to foster children.

We commend this subcommittee for undertaking to examine what is happening to the children who, through no fault of their own, are caught up in systems that, despite good intentions, are not meeting their needs.

From our familiarity with state and local social service programs, we would point out that, because of citizen review, foster care is the **only** social service program in which service effectiveness is monitored client by client, with participation of client-children and families as well as all others involved in providing care and services, right at the service delivery level of the family and child. We are at the forefront of assuring that abused and neglected children get the services they need, and get permanent families at the earliest possible time. No other public bureaucracy or court procedure even approaches this degree of monitoring and quality assurance. A small number of dedicated volunteers are able to assure that thousands of children do not languish unnecessarily in temporary care when what they need is a loving and nurturing family. No internal or administrative review can begin to meet the kind of standard of objective, independent review afforded by citizen reviewers.

We urge the subcommittee to consider for recommendation that every child in the custody of a public child welfare agency be assured of an independent citizen review by requiring all states to establish such safeguarding procedures. Such reviews should be required at six month intervals.

Courts should be required to utilize such review information in their judicial reviews of children in legal custody.

States should also be required to establish a state review board, consisting primarily of citizen reviewers, which reports annually to state executive, legislative, and judicial agencies and to the Federal funding agency for reporting to Congress on the utilization of Federal funds.

The law should provide both incentives and penalties to states for effective or ineffective implementation of review requirements.

We believe the National Association of Foster Care Reviewers, the primary representative of the 24 states now having some citizen review, is the appropriate vehicle for providing training to states and citizen reviewers, for directing the gathering of uniform data for reports to the Federal agency and to Congress on the status of children in substitute care, and the progress being made in remedying the problem of nearly one-half million children who now do not have permanent families.

Funding for citizen review programs should go directly to state boards in order to ensure their independence from any state agency or courts which control the services provided to abused and neglected children. Funding for the national training, data collection and reporting to the Congress and the Federal agency should be directed to the National Association of Foster Care Reviewers to assure that its operations are conducted independent of any Federal or state agencies controlling child protection programs.

Our thanks once again to the Subcommittee on Oversight and its chair, Rep. Nancy L. Johnson, for undertaking this important issue.

The following Citizen Reviewers have authorized their names to be appended to this letter.

Sally J. Evans

Julia S. Nathanson

Vera L. Kegel

Theodora Baer

Joseph E. Paull

Laura L. Dunmar

Shirley Steiner

COMMONWEALTH OF PENNSYLVANIA
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Michael J. Breslin
Executive Deputy Secretary

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FEB 06 1995

Mr. Phillip D. Moseley
Chief of Staff
Committee on Ways and Means
U.S. House of Representatives
Room 1102 Longworth House Office Building
Washington, D.C. 20515

Dear Mr. Moseley:

Attached you will find 15 copies of written testimony on Pennsylvania's child welfare programs for submission to the U.S. Ways and Means Subcommittee on Oversight. The deadline for submission is Thursday, February 9, 1995.

Thank you for the opportunity to provide testimony on the structure and financing of child welfare programs at the federal level.

Sincerely,

Michael J. Breslin

Attachment

I want to express my sincere thanks to the Honorable Nancy L. Johnson and the members of the Subcommittee on Oversight of the Committee on Ways and Means for the opportunity to provide testimony on the structure and funding of child welfare programs at the federal level. Your commitment to moving quickly to review and address areas of federal/state relations that involve mandates and impose burdens on states is greatly appreciated and long overdue.

As child welfare needs and costs have multiplied, federal support for child welfare programs has become indispensable. Federal programs currently fund 37 percent of the cost of Pennsylvania's child welfare services. But, each federal program is accompanied by procedural, monitoring and reporting requirements. These requirements not only add significantly to paperwork and administrative responsibilities of staff, but also inhibit program flexibility and the freedom to experiment with program funds. My statement will propose some modest changes to reduce federal Title IV-B funding requirements as well as provide a few comments on the importance of continued federal funding for state child welfare programs.

I will begin by addressing Pennsylvania's experience in implementing Section 427 of Title IV-B.

The case planning system and court review requirements of P.L. 96-272 have changed the way public child welfare agencies in Pennsylvania do business. Before P.L. 96-272, parents voluntarily placed their children and sometimes were never able to get them back. Parents were prohibited from knowing where their children were and were not allowed to visit with any regularity. Private agencies accepted children into placement without the involvement of any public authority, or the courts. With P.L. 96-272, county children and youth agencies fully assumed the following responsibilities:

--they assumed active responsibility for case management and decision-making about placement of children and their return home in conjunction with the courts;

--they assumed responsibility for determining case goals and assessing progress toward those goals;

--they assumed responsibility for bringing parents into the case planning process in a meaningful way so that parents had goals to achieve after which their children would be returned;

--they assumed responsibility for working with the courts to establish a case review system for all children in placement which assures that goals are appropriate and that progress is being made toward achieving those goals; and

--they assumed responsibility for compliance with federal and state funding requirements which hold all of us accountable for the public funds expended for these services.

All of these responsibilities have made the child welfare system more accountable to the public, to parents, to those who work in the system and to the courts, and have improved the quality of service to children in out-of-home care.

Pennsylvania has a strong record of achievement in Section 427 compliance. We have met the federal standards in all Section 427 reviews and have achieved 100 percent compliance in a majority of those reviews.

While we believe strongly in the importance of the Section 427 requirements, we also believe that federal enforcement of the requirements through program audits is no longer necessary. State laws, operating policies and procedural safeguards supporting and reflecting a philosophy of family preservation have been an integral part of Pennsylvania's child welfare system for the past 12 years. Federal Section 427 audits are time consuming and expensive, especially for a county administered child welfare system such as Pennsylvania's. For these reasons, I am recommending that the Title IV-B Section 427 requirements be eliminated or, if this is not possible, that each state be able to self certify that it meets the requirements of Section 427.

Next, I will address the planning requirements contained in Title IV-B as amended by the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and make a recommendation on future funding of state child welfare service programs.

OBRA '93 amended Title IV-B to create a new capped entitlement program for family support and family preservation services. OBRA '93 authorizes formula grants to states totaling $60 million in Federal Fiscal Year 1994 and increasing to $255 million by Federal Fiscal year 1998 to fund the new family support and family preservation program. Pennsylvania's share of these funds was $2.360 million for Federal Fiscal Year 1994 and will be $9.755 million in Federal Fiscal Year 1998. While these funds are needed in Pennsylvania, we are concerned that the creation of another categorical program will further fragment funding and limit state flexibility to meet specific state needs.

OBRA '93 also changed and expanded the state planning required to be eligible to receive Title IV-B funds. The new Title IV-B plan requirements are more extensive and prescriptive than the previous planning required by Title IV-B. The new planning requirements specify whom states must involve in the planning process and mandate a statewide needs assessment, extensive program inventories, the targeting of resources, and the development of data systems to monitor the achievement of goals and report to the federal government.

Prior Title IV-B planning requirements allowed states to define their own planning process and to determine for themselves who would be involved in the planning process. In Pennsylvania, we have used Title IV-B planning to define priorities for the development of our child welfare system in ways that make the most sense to Pennsylvania. The process has helped to build a partnership between the State and local communities and to address the most important needs of our child welfare system. We believe the new planning requirements go too far in specifying how states must plan for child welfare services.

Pennsylvania is establishing a community-based, interagency, comprehensive approach to the delivery of services to children and families. State flexibility in the planning and use of Title IV-B funds is important to the continuing development of this cross-system approach to child and family services. The OBRA '93 child welfare amendments have made Title IV-B more categorical and prescriptive. Merging the two parts of Title IV-B into a single child welfare block grant along with a return to the prior planning requirements will reduce costs to the states and return flexibility to the program.

In closing, I wish to offer a few general comments on federal funding of state child and family service programs.

There are over 70 federal programs administered through state government in Pennsylvania that are designed to address specific child and family health and welfare issues. This array of services, each with its own discrete eligibility criteria, rules and procedures, contribute to a complex, categorical and rigid system that focus on specific problems rather than on comprehensive family needs. Our hope is that you will reduce the complexity of federal funding and provide states and communities with the flexibility to design local strategies that will keep families together as well as protect and care for those children who cannot remain with their own families. As new funding approaches are considered, other related funding streams, such as health and education, should also be reviewed so that the complexity of programs and funds provided to states can be streamlined and merged. The emphasis must shift from a program specific focus to one that addresses broad child and family outcomes.

Child welfare programs are funded primarily through four federal revenue sources: Title IV-B, Title IV-E, Title IV-A emergency assistance and Title XIX Medicaid. While a more consistent approach and greater flexibility in federal requirements for these programs is needed, changes in any of these funding sources which do not respond to changes in the level of client need will create a significant financial burden on states and local communities.

The cost of child welfare services has increased dramatically during the past five years. Despite our best efforts to preserve families and prevent the placement of children, the number of children in need of foster care continues to grow. Budgeted costs for children and youth services in Pennsylvania for the current fiscal year are $826 million. Just five years ago, in fiscal year 1989-90, total costs for Pennsylvania's children and youth system were $457 million. This is an 80 percent increase in five years. Seventy-five percent of the cost of these services is the result of foster care placements.

The dissolution of families and the decay of communities has led to this continuing demand for substitute family care. Out-of-wedlock births, teen pregnancy, drug abuse, and the increase of single parent families are major problems affecting the need for child welfare services that will require the involvement of all sectors of our society to solve. It is essential that states have the flexibility to work with local communities that can develop local interventions and prevention strategies to build strong families and communities. As indicated previously, it is the myriad of discrete programs with a single focus that tie the hands of those at the local level trying to address comprehensive family problems. We must work to keep families together and provide our communities with the resources, capacity and flexibility to do the job.

WRITTEN COMMENTS FROM
CAROL A. BRUNTY, COMMISSIONER
VIRGINIA DEPARTMENT OF SOCIAL SERVICES FOR
THE COMMITTEE ON WAYS AND MEANS
SUBCOMMITTEE ON OVERSIGHT

February 7, 1995

Public Law 96-272, the Adoption Assistance and Child Welfare Act of 1980, was passed to provide valuable protections for children that were at risk of out-of-home placements. Prior to this legislation, systems among the states varied radically. It was not unusual for children to be caught in "foster care drift" and "forgotten children" was a descriptive term for these children. With passage of Public Law 96-272, public policy was changed and states were held accountable for the children in their care. Permanency planning became the goal and services were focused on keeping children with their birth families. If children had to be removed, Public Law 96-272 sought to assure (i) return to safe birth homes, or (ii) timely placement with adoptive families. To achieve this goal, states were required to develop and implement automated information systems, case reviews and service planning. Compliance was to be determined through federal audits which were to focus on 18 specifically identified safeguards.

Virginia was one of the first states to make effective use of the permanency planning concept. We embraced the permanency planning philosophy, instituted a system of case review, and developed an automated tracking system as early as 1976. Consequently, by June 1994, there were 6313 children in foster care throughout the state. This was 4990 (44%) fewer children in care than in 1976 when the permanency planning concept was initiated.

Few child welfare professionals will argue with the philosophical intent of the Act. Through implementation, the lives of children have been positively impacted. More children are being kept in their birth families, the length of time a child remains in foster care has decreased, and more children are achieving adoption than ever before.

Nevertheless, we still have a long way to go in meeting the critical needs of children and families. There are three issues that merit serious consideration: accountability, flexibility, and resources to carry out the intent of the Act.

Accountability

Although significant progress was made after the protections of Section 427 of the Social Security Act were developed, the federal approach to monitoring these requirements has focused more on procedural requirements and checking of boxes than on quality of service provision. For example, the focus of federal reviews has been on the *timeliness* of administrative panel reviews and dispositional hearings rather than on the service outcomes. Similarly, the *existence* of a service plan has been seen as the critical element, rather than the actual service planning process and the services that were provided.

While this approach may have been appropriate initially to ensure uniform compliance among states, we need to move beyond just a paper review to a monitoring process that focuses on the true intent of the Act. Passage of a 427 audit, as it currently exists, has little to do with the effectiveness of a child welfare program. More than half of the states are involved in some kind of child welfare litigation or are operating under consent decrees. Many of these states had passed 427 audits without difficulty. The time has come for us to begin looking at the appropriateness and quality of services being provided and at the outcomes being achieved as a result of these services.

Whether monitoring continues to be a function of the federal government or is taken over by the states, this type of monitoring is certain to present a tremendous challenge. However, movement in this direction is essential if we are to reform and improve the child welfare system while building on the knowledge we have gained in the past decade.

Flexibility

Flexibility is also an essential component of any attempt to reform current systems. Virginia has recently redesigned its approach to service provision. In 1992, the General Assembly enacted legislation entitled the Comprehensive Services Act. Passage of this act dramatically altered the administrative and funding systems providing services to at-risk youth and families. The purpose of the act was to create a collaborative system of services and funding that is child-centered, family-focused and community-based. Services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment, while protecting the welfare of children and maintaining the safety of the public. Early intervention, interagency collaboration, family involvement, public and private partnerships, and community flexibility in decision-making and the utilization of funds characterize this innovative system.

With this act, an administrative structure was developed and funding from five human service agencies was combined to carry out this initiative. Although findings from numerous studies indicated that redesign of Virginia's service system was essential and that the proposed structure was the most effective and cost efficient, implementation was an unnecessary challenge because of existing categorical funding limitations. Categorical funding from the federal government has inhibited Virginia's ability to de-categorize the needs of children and families even with our new system.

The bottom line is that we believe we are doing some things right in the Commonwealth. Virginia is not unique, nor is it any more creative than other states. Given the opportunity, states have proven their ability to develop programs and services that meet the needs of their citizens and that are cost effective. Therefore, we would advocate for a reduction in costly and burdensome federal regulations and an increase in state flexibility.

Current funding streams limit populations that can be served, creativity in developing services needed by local communities, and flexibility by states to improve services to their citizens. Block granting, which would allow more flexibility and creativity on the state level, could be advantageous in moving toward more effective service systems. Effective block granting would include indexing that will accommodate state population growth, triggers that allow "uncapping" of the block grant during times of increases in the child welfare caseload, and incentives for states that are based on achievement of positive outcomes, rather than punitive penalties for not meeting process requirements.

Resources

Although block granting has the potential for encouraging more creativity and flexibility on the state level, careful consideration must be given to the structure of any block grant design.

Currently, Title IV-E, which provides states with funding for administration, training, and maintenance expenses is an open ended entitlement program. With the creation of block grants, funding could be capped at a level that would restrict the development of innovative programs and services and which would preclude the state's ability to develop qualified resources. Observation of those states that have undergone consent degrees, as a result of suits being filed by the American Civil Liberties Union, shows that resources are one of the most critical components in an effective service delivery system. With increased, qualified resources, outcomes for children in these systems have improved significantly.

Summary

The federal government has taken an essential leadership role in shaping the direction of child welfare service systems. Federal 427 reviews were instrumental in moving states away from antiquated systems that encouraged foster care drift toward service systems that resulted in beneficial outcomes for children and families. Progress now demands that we move beyond the traditional monitoring approach to an approach that forces states to move even further toward positive outcomes. Block grants have the potential for giving the states necessary and appropriate flexibility in developing approaches that best meet the needs of their citizens. Structuring of block grants must include indexing for population growth and incentives for achievement of positive outcomes.

The challenge before us is structuring a funding stream that contains the components of public accountability, flexibility for individual states, and incentives for achievement of positive outcomes. We believe the concepts of Public Law 96-272 are still valid, but future measurement of state child welfare systems must be based on achievement of agreed upon outcomes or benchmarks that are child centered, family focused, and community based.

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